

continuous residence in the United States.

(vii) Two photographs prepared in accordance with the specifications outlined in the instructions on the application form. The immigration officer to whom the application is submitted, however, may waive the photographs for just cause.

(2) *Lawful permanent residence as a person born in the United States under diplomatic status.* An applicant who believes that he/she is eligible for lawful permanent residence as a person born in the United States to a foreign diplomatic officer under §101.3 of this chapter shall submit the following:

(i) A completed Form I-485, with the fee required in 8 CFR 103.7(b)(1) and any initial evidence required in this application form and in this section.

(ii) Form G-325A, Biographic Information.

(iii) The applicant's fingerprints on Form FD-258.

(iv) The applicant's birth certificate.

(v) An executed Form I-508, Waiver of Rights, Privileges, Exemptions, and Immunities.

(vi) Official confirmation of the diplomatic classification and occupational title of the applicant's parent(s) at the time of the applicant's birth.

(vii) A list of all the applicant's arrivals in and departures from the United States.

(viii) Proof of continuous residence in the United States.

(ix) Two photographs prepared in accordance with the specifications outlined in the instructions on the application form. The immigration officer to whom the application is submitted, however, may waive the photographs for just cause.

(3) *Applicant under fourteen years old.* An applicant under fourteen years old shall not submit Form G-325A, Biographic Information, or his/her fingerprints on Form FD-258.

(d) *Personal appearance.* Each applicant, including an applicant under eighteen years of age, must submit his/her application in person. This requirement may be waived at the discretion of the immigration officer to whom the application is submitted because of confinement of age, physical infirmity, illiteracy, or other compelling reason.

(e) *Interview.* The applicant may be required to appear in person before an immigration officer prior to adjudication of the application to be interviewed under oath concerning his/her eligibility for creation of a record of lawful permanent residence.

(f) *Decision.* The decision regarding creation of a record of lawful permanent residence for an alien eligible for presumption of lawful admission for permanent residence or for a person born in the United States to a foreign diplomatic officer will be made by the district director having jurisdiction over the applicant's place of residence.

(g) *Date of record of lawful permanent residence—(1) Presumption of lawful admission for permanent residence.* If the application is granted, the applicant's permanent residence will be recorded as of the date of the applicant's arrival in the United States under the conditions which caused him/her to be eligible for presumption of lawful admission for permanent residence.

(2) *Lawful permanent residence as a person born in the United States under diplomatic status.* If the application is granted, the applicant's permanent residence will be recorded as of his/her date of birth.

(h) *Denied application.* If the application is denied, the decision may not be appealed.

(Secs. 101(a)(20), 103, 262, 264 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(20), 1103, 1302, 1304)

[47 FR 941, Jan. 8, 1982, as amended at 58 FR 48779, Sept. 20, 1993]

§264.4 Application to replace a Nonresident Alien Border Crossing Card.

An application for a replacement Nonresident Alien Border Crossing Card must be filed pursuant to §212.6(e) of this chapter. An application for a replacement Form I-185, Nonresident Alien Canadian Border Crossing Card, must be filed on Form I-175. A fee as prescribed in §103.7(b)(1) of this chapter must be submitted at time of application. An application for a replacement Form I-586, Nonresident Alien Border Crossing Card, must be filed on Form I-190. A fee as prescribed in §103.7(b)(1) of this chapter must be submitted at time

of application to replace a lost, stolen, or mutilated card.

[60 FR 40069, Aug. 7, 1995]

§ 264.5 Application for a replacement Alien Registration Card.

(a) *General.* An application for a replacement alien registration card must be filed on Form I-90 with the initial evidence required on the application form and with the fee specified in 8 CFR 103.7(b)(1); except that no fee is required for an application filed pursuant to paragraphs (b)(7) through (b)(9) of this section, or paragraphs (d)(2) or (d)(4) of this section.

(b) *Permanent residents required to file.* A permanent resident shall apply for a replacement alien registration card:

- (1) When the previous card has been lost, stolen, or destroyed;
- (2) When the existing card will be expiring within six months;
- (3) When the existing card has been mutilated;
- (4) When the bearer's name or other biographic information has been legally changed since issuance of the existing card;
- (5) When the applicant is taking up actual residence in the United States after having been a commuter, or is a permanent resident taking up commuter status;
- (6) When the applicant has been automatically converted to permanent resident status;
- (7) When the previous card was issued but never received;
- (8) When the bearer of the card reaches the age of 14 years, unless the existing card will expire prior to the bearer's 16th birthday; or
- (9) If the existing card bears incorrect data on account of Service error.

(c) *Other filings by a permanent resident.*

(1) A permanent resident shall apply on Form I-90 to replace a prior edition of the alien registration card issued on Form AR-3, AR-103, or I-151.

(2) A permanent resident may apply on Form I-90 to replace any edition of the alien registration card for any other reason not specified in paragraphs (b) and (c)(1) of this section.

(d) *Conditional permanent residents required to file.* A conditional permanent resident whose card is expiring shall

apply to remove the conditions on residence on Form I-751. A conditional permanent resident shall apply on Form I-90:

- (1) To replace a card that was lost, stolen, or destroyed;
- (2) To replace a card that was issued but never received;
- (3) Where the prior card has been mutilated;
- (4) Where the prior card is incorrect on account of Service error; or
- (5) Where his or her name or other biographic data has changed since the card was issued.

(e) *Application process—(1) Accompanying documents—(i) Photographs.* An I-90 application must be filed with two color photographs meeting the specifications on the application form.

(ii) *Prior evidence of alien registration.* An I-90 application filed under paragraph (b) (2), (3), (4), (5), (8), or (9) of this section must include the prior Alien Registration Receipt Card or other evidence of permanent residence or commuter status.

(iii) *Evidence of name or other biographic change.* An I-90 application filed under paragraph (b)(4) of this section must include the order, issued by a court of competent jurisdiction, changing the applicant's name, or with the applicant's marriage certificate. An application to change other biographic data on a card must include documentary evidence conclusively establishing the new data.

(iv) *Fingerprint chart.* An I-90 application filed under paragraph (b)(8) of this section must be filed with a completed Form FD-258 Fingerprint Chart.

(2) *Filing—(i) Where to file.* An I-90 application shall be filed by the applicant with the Service office that has jurisdiction over his or her place of residence, except for those applicants filing an I-90 pursuant to paragraph (b)(6) of this section, who shall file the application with the Director of the Service Center having jurisdiction over his or her place of residence. If the applicant's place of residence is outside the United States and there is no Service office in that foreign country, the application shall be filed by the applicant, in person, at the American Consulate with jurisdiction over his or her place of residence.