

documentation required under paragraph (b)(2) of this section must be presented for each port at which the longshore work will be performed.

(c) *Reciprocity exception.* Non-immigrant crewmen may perform longshore work in a United States port under this exception if:

(1) The vessel on which the crewmen serve is registered in a country that does not prohibit crewmen aboard United States vessels from performing longshore work, or a specified longshore activity, when United States vessels land in that country, as determined by the Secretary of State; and

(2) The master or agent presents an affidavit from the crewmen's employer or the vessel's owner that a majority of the ownership interest in the vessel is held by nationals of a country or countries that do not prohibit such longshore activity by crewmen aboard United States vessels when they land in those countries.

(d) *Vessels that qualify for multiple exceptions.* A vessel that qualifies for more than one exception under this section may invoke the exception that the master or agent chooses.

(e) *Lack of documentation required by an exception.* If a vessel invokes an exception to the prohibition against non-immigrant crewmen performing longshore work, but lacks any documentation required to accompany the manifest when invoking the exception, then the vessel's crewmen shall not perform longshore work. If the longshore work is performed despite the lack of documentation that the immigration officer has noted on the Form I-410, then the vessel is subject to fine under section 251(d) of the Act.

§ 258.3 Action upon arrival.

(a) The master or agent of the vessel shall state on the manifest at the first port of entry:

(1) Whether or not nonimmigrant crewmen aboard the vessel will perform longshore work at any port before departing the United States; and

(2) If nonimmigrant crewmen will perform longshore work, which exception in section 258 of the Act permits them to do so.

(b) If nonimmigrant crewmen will perform longshore work, the master or

agent of the vessel shall present with the manifest any documentation required by 8 CFR 258.2 for the exception invoked.

(c) If, at the time of inspection, the master or agent fails to present the documentation required for the exception invoked, then the vessel is prohibited from using nonimmigrant crewmen to perform longshore work. If crewmen aboard the vessel perform longshore work despite the prohibition, the vessel is subject to fine under section 251(d) of the Act.

(d) The examining immigration officer shall give the master or agent a Receipt for Crew List, Form I-410, on which the officer shall note whether or not nonimmigrant crewmen will do longshore work at any port of call and, if so, under which exception. The officer shall also note which documentation supporting the exception accompanied the manifest, and any failure to present documentation which failure would prohibit crewmen from performing longshore work under the exception that the vessel invoked.

(e) If a vessel's crewmen perform longshore activity not sanctioned by an exception but performed to prevent the imminent destruction of goods or property; severe damage to vessels, docks, or real estate; possible environmental contamination; or possible injury or death to a person, a concise report of the incident shall be made within 14 days of the incident to the Immigration and Naturalization Service seaport office that performed the inspection. If the Service agrees that the situation was one of imminent danger requiring immediate action, no fine will be imposed for the performance of a longshore activity in this isolated instance.

(f) Failure to deliver true and complete information on the manifest or any documentation required to support an exception may result in a fine against the owner, agent, consignee, master, or commanding officer under section 251(d) of the Act.

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

264.1 Registration and fingerprinting.

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- 264.2 Application for creation of record of permanent residence.
- 264.4 [Reserved]
- 264.5 Application for a replacement Permanent Resident Card.
- 264.6 Application for an initial or replacement Form I-94, Nonimmigrant Arrival-Departure Document, or Form I-95, Crewmen's Landing Permit.

AUTHORITY: 8 U.S.C. 1103, 1201, 1303-1305; 8 CFR part 2.

§ 264.1 Registration and fingerprinting.

(a) *Prescribed registration forms.* The following forms are prescribed as registration forms:

FORM NO. AND CLASS

- I-67, Inspection Record—Hungarian refugees (Act of July 25, 1958).
- I-94, Arrival-Departure Record—Aliens admitted as nonimmigrants; aliens paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act; aliens whose claimed entry prior to July 1, 1924, cannot be verified, they having satisfactorily established residence in the United States since prior to July 1, 1924; aliens lawfully admitted to the United States for permanent residence who have not been registered previously; aliens who are granted permission to depart without the institution of deportation proceedings or against whom deportation proceedings are being instituted.
- I-95, Crewmen's Landing Permit—Crewmen arriving by vessel or aircraft.
- I-181, Memorandum of Creation of Record of Lawful Permanent Residence—Aliens presumed to be lawfully admitted to the United States under 8 CFR 101.1.
- I-485, Application for Status as Permanent Resident—Applicants under sections 245 and 249 of the Immigration and Nationality Act as amended, and section 13 of the Act of September 11, 1957.
- I-485A, Application by Cuban Refugee for Permanent Residence—Applicants under section 1 of the Act of November 2, 1966.
- I-590, Registration for Classification as Refugee—Escapee—Refugee-escapees paroled pursuant to section 1 of the Act of July 14, 1960.
- I-687, Application for Status as a Temporary Resident—Applicants under section 245A of the Immigration and Nationality Act, as amended.
- I-691, Notice of Approval for Status as a Temporary Resident—Aliens adjusted to lawful temporary residence under 8 CFR 210.2 and 245A.2.
- I-698, Application to Adjust Status from Temporary to Permanent Resident—Applicants

- cants under section 245A of the Immigration and Nationality Act, as amended.
- I-700, Application for Status as a Temporary Resident—Applicants under section 210 of the Immigration and Nationality Act, as amended.
- I-817, Application for Voluntary Departure under the Family Unity Program.

(b) *Evidence of registration.* The following forms constitute evidence of registration:

FORM NO. AND CLASS

- I-94, Arrival-Departure Record—Aliens admitted as nonimmigrants; aliens paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act; aliens whose claimed entry prior to July 1, 1924, cannot be verified, they having satisfactorily established residence in the United States since prior to July 1, 1924; and aliens granted permission to depart without the institution of deportation proceedings.
- I-95, Crewmen's Landing Permit—Crewmen arriving by vessel or aircraft.
- I-184, Alien Crewman Landing Permit and Identification Card—Crewmen arriving by vessel.
- I-185, Nonresident Alien Canadian Border Crossing Card—Citizens of Canada or British subjects residing in Canada.
- I-186, Nonresident Alien Mexican Border Crossing Card—Citizens of Mexico residing in Mexico.
- I-221, Order to Show Cause and Notice of Hearing—Aliens against whom deportation proceedings are being instituted.
- I-221S, Order to Show Cause, Notice of Hearing, and Warrant for Arrest of Alien—Aliens against whom deportation proceedings are being instituted.
- I-551, Permanent Resident Card—Lawful permanent resident of the United States.
- I-688, Temporary Resident Card—Lawful temporary residents of the United States.
- I-688A, Employment Authorization Card.
- I-688B, Employment Authorization Document.
- I-766, Employment Authorization Document.

(c) *Replacement of registration.* Any alien whose evidence of registration has been lost, mutilated, or destroyed, shall immediately apply for new evidence of registration.

(1) *Temporary residents.* Application by an alien lawfully admitted for temporary residence for Form I-688, Temporary Resident Card, shall be made on Form I-695. (i) *Who can file.* An I-695 application may be filed by a lawful temporary resident:

(A) To replace a lost, stolen, or destroyed card;

(B) To replace a mutilated card;

(C) To change a name or other biographic data.

(ii) *Fee.* An I-695 application must be submitted with the fee required by § 103.7(b)(1) of this chapter.

(iii) *Accompanying documents—(A) Photographs.* An I-695 application must be filed with two color photographs meeting the specifications on the application form.

(B) *Prior evidence of alien registration.* Any Form I-688 in the applicant's possession must be submitted with the application.

(C) *Evidence of name or other biographic change.* An I-695 application filed under paragraph (c)(2)(i)(C) of this section must be filed with 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 be filed with documentary evidence conclusively establishing the new data.

(iv) *Filing—(A) Where to file.* An application by an alien within the United States for replacement of evidence of registration shall be submitted to the legalization or Service office having jurisdiction over the applicant's place of residence in the United States. An alien outside the United States shall appear at an American Consulate or Service office abroad and present a full account of the circumstances involving the loss or destruction of Form I-688. A cable shall be sent to the Service's Central Office Records Management Branch for verification of status. Subsequent to verification that temporary residence was granted, a transportation letter will be issued to the temporary resident alien. Upon entry to the United States, the alien shall submit the I-695 to the legalization or Service office having jurisdiction over the applicant's place of residence in the United States.

(B) *Camera ready card.* Prior to the issuance of Form I-688, all applicants, regardless of age, shall appear at the appropriate legalization or Service office for placement of fingerprint and signature on I-688.

(v) *Processing—(A) Interview.* An alien who files application Form I-695 may be required to appear in person before an immigration officer prior to the adjudication of the application and be interviewed under oath concerning his or her eligibility for issuance of I-688 as evidence of his or her registration.

(B) *Waiver of requirements.* The Service may waive the photograph, interview or the placement of fingerprint and signature on the I-688 for a child under 14 or when it is impractical because of the health or advanced age of the applicant.

(C) *Fingerprint chart.* An applicant may be required to present a completed fingerprint chart, FD-258.

(vi) *Decision.* The decision on an application for replacement of evidence of registration shall be made by the Regional Processing Facility director having jurisdiction over the alien's place of residence in the United States. No appeal shall lie from the decision of the Regional Processing Facility director denying the application.

(2) [Reserved]

(d) *Surrender of registration.* If an alien is naturalized, dies, permanently departs, or is deported from the United States, or evidence of registration is found by a person other than the one to whom such evidence was issued, the person in possession of the document shall forward it to a Service office.

(e) *Fingerprinting waiver.* (1) Fingerprinting is waived for non-immigrant aliens admitted as foreign government officials and employees; international organization representatives, officers and employees; NATO representatives, officers and employees, and holders of diplomatic visas while they maintain such non-immigrant status. Fingerprinting is also waived for other nonimmigrant aliens, while they maintain non-immigrant status, who are nationals of countries which do not require fingerprinting of United States citizens temporarily residing therein.

(2) Fingerprinting is waived for every nonimmigrant alien not included in paragraph (e)(1) of this section who departs from the United States within one year of his admission, provided he maintains his nonimmigrant status during that time; each such alien not

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previously fingerprinted shall apply therefor at once if he remains in the United States in excess of one year.

(3) Every nonimmigrant alien not previously fingerprinted shall apply therefor at once upon his failure to maintain his nonimmigrant status.

(f) Registration, fingerprinting, and photographing of certain nonimmigrant aliens.

(1) Registration requirement for certain nonimmigrants. Notwithstanding the provisions in paragraph (e) of this section, nonimmigrant aliens identified in paragraph (f)(2) of this section are subject to special registration, fingerprinting, and photographing requirements upon arrival in the United States. This requirement shall not apply to those nonimmigrant aliens applying for admission to the United States under sections 101(a)(15)(A) (8 U.S.C. 1101(a)(15)(A)) or 101(a)(15)(G) (8 U.S.C. 1101(a)(15)(G)) of the Act. In addition, this requirement shall not apply to those classes of nonimmigrant aliens to whom the Secretary of Homeland Security and the Secretary of State jointly determine it shall not apply, or to any individual nonimmigrant alien to whom the Secretary of Homeland Security or the Secretary of State determines it shall not apply. Completion of special registration pursuant to this paragraph (f) is a condition of admission under section 214 of the Act (8 U.S.C. 1184) if the inspecting officer determines that the alien is subject to registration under this paragraph (f) (hereinafter "nonimmigrant alien subject to special registration").

(2) Identification of aliens subject to registration at ports-of-entry. Nonimmigrant aliens in the following categories are subject to the requirements of paragraph (f)(3) of this section:

(i) Nonimmigrant aliens who are nationals or citizens of a country or territory designated by the Secretary of Homeland Security, in consultation with the Secretary of State, by a notice in the FEDERAL REGISTER;

(ii) Nonimmigrant aliens whom a consular officer or an inspecting officer has reason to believe are nationals or citizens of a country or territory designated by the Secretary of Homeland Security, in consultation with the Sec-

retary of State, by a notice in the FEDERAL REGISTER; or

(iii) Nonimmigrant aliens who meet pre-existing criteria, or whom a consular officer or the inspecting officer has reason to believe meet pre-existing criteria, determined by the Secretary of Homeland Security or the Secretary of State to indicate that such aliens' presence in the United States warrants monitoring in the national security interests, as defined in section 219 of the Act (8 U.S.C. 1189), or law enforcement interests of the United States.

(3) *Obligations regarding registration.*

(i) Any nonimmigrant alien who is included in paragraph (f)(2) of this section, and who applies for admission to the United States, shall be specially registered by providing information required by the Department of Homeland Security, shall be fingerprinted, and shall be photographed, by Department of Homeland Security, at the port-of-entry at such time the nonimmigrant alien applies for admission to the United States. The Department of Homeland Security shall advise the nonimmigrant alien subject to special registration that the nonimmigrant alien may, upon ten days notice, and at the Department of Homeland Security's discretion, be required to appear at a U.S. Immigration and Customs Enforcement office in person to verify information by providing additional information or documentation confirming compliance with the conditions of his or her visa status and admission. The Department of Homeland Security will determine on a case-by-case basis which aliens must appear in person to verify information. The nonimmigrant alien subject to special registration must appear at the designated office location, and on the specified date and time, unless otherwise specified in the notice.

(ii) At the time of verification of information for registration pursuant to paragraph (f)(3)(i) of this section, the nonimmigrant alien subject to special registration shall provide the Department of Homeland Security with proof of compliance with the conditions of his or her nonimmigrant visa status

and admission, including, but not limited to, proof of residence, employment, or registration and matriculation at an approved school or educational institution. The nonimmigrant alien subject to special registration shall provide any additional information required by the Department of Homeland Security.

(4) *Registration of aliens present in the United States.* (i) The Secretary of Homeland Security, by publication of a notice in the FEDERAL REGISTER, also may impose such special registration, fingerprinting, and photographing requirements upon nonimmigrant aliens who are nationals, citizens, or residents of specified countries or territories (or a designated subset of such nationals, citizens, or residents) who have already been admitted to the United States or who are otherwise in the United States. A notice under this paragraph (f)(4) shall explain the procedures for appearing in person and providing the information required by the Department of Homeland Security, providing fingerprints, photographs, or submitting supplemental information or documentation.

(ii) Any nonimmigrant alien who is currently subject to special registration as a result of the publication of any previous FEDERAL REGISTER notice may, while he or she remains in the United States, upon 10 days notice and at the Department of Homeland Security's discretion, be required to appear at a Department of Homeland Security Office in person to provide additional information or documentation confirming compliance with his or her visa and admission. The Department of Homeland Security will determine on a case-by-case basis which aliens must appear in person to verify information. The nonimmigrant alien subject to special registration must appear at the designated office location, and on the specified date and time, unless otherwise specified in the notice.

(5) *Obligation to provide updated information.* In addition to any additional re-registrations that may be required pursuant to paragraphs (f)(3) and (f)(4) of this section, any nonimmigrant alien subject to special registration under this paragraph (f) who remains in the United States for 30 days or

more shall notify the Department of Homeland Security by mail or other such means as determined by the Secretary of Homeland Security, using a notification form designated by the Department of Homeland Security, of any change of address, change of residence, change of employment, or change of educational institution within 10 days of such change. Notice to the Department of Homeland Security of a change of address, change of residence or change of educational institution made within 10 days of such a change through the Student and Exchange Visitor Information System (SEVIS) shall constitute notice under this paragraph.

(6) [Reserved]

(7) *Relief from registration requirements.* A nonimmigrant alien subject to special registration may apply for relief from the registration requirements as follows:

(i) *Relief from departure controls set out in 264.1(f)(8).* An alien who has been registered under the provisions of this section (f) and has not yet departed the United States may seek relief from the departure control requirement contained in paragraph (f)(8) for that admission by applying to the U.S. Customs and Border Protection field office director for the port from which the alien intends to depart. In making an application for relief, the alien must establish that exigent or unusual circumstances exist and that the alien warrants a favorable exercise of discretion.

(ii) *Frequent travelers.* An alien who previously has been registered and who would otherwise be subject to registration at a port of entry under the provisions of paragraphs (f)(2) and (3) of this section may seek relief from the registration requirements from the Secretary of Homeland Security after his initial registration if the alien makes frequent trips to the United States. An alien seeking relief under this paragraph from the Secretary of Homeland Security may apply to the U.S. Customs and Border Protection field office director for the port to which the alien most frequently arrives in the United States. The field office director or his designee will make the determination that the frequency of arrival warrants

relief from the registration requirements on a case-by-case basis, and will consider in this analysis the mode of travel, business and economic concerns, purpose of travel, or other factors as determined by the director. In making an application for relief, the alien must establish that good cause or exigent or unusual circumstances exist and that the alien warrants a favorable exercise of discretion.

(iii) *Exemption from registration.* At a Department of State consular office abroad, an alien may seek exemption from these regulations from the Department of State by such methods as it may prescribe.

(iv) *For all applications for relief.* Any decision of a Department of Homeland Security officer or official to grant or deny relief under this paragraph (f)(7) is final and not appealable. Absent receipt of a decision exempting or relieving the nonimmigrant alien from these requirements, he or she shall comply with the special registration requirements contained in this section.

(v) *Termination of relief.* Relief granted under paragraphs (f)(7)(i) or (ii) of this section may be terminated by notice to the alien by any field office director or other Department of Homeland Security officer or official authorized to grant such relief.

(8) *Departure requirements.* (i) General requirements. When a nonimmigrant alien subject to special registration departs from the United States (other than nonimmigrant crewmen as defined under section 101(a)(15)(D) of the Act) he or she shall report to an inspecting officer of the Department of Homeland Security at any port-of-entry unless the Department of Homeland Security has, by publication of a notice in the FEDERAL REGISTER, specified that nonimmigrant aliens subject to special registration may not depart from specific ports. This paragraph (f)(8) applies only to those nonimmigrant aliens who have been registered under paragraph (f)(3) of this section, or who have been required to register pursuant to paragraph (f)(4) of this section, and who have not been granted relief from the departure requirements under paragraph (f)(7).

(ii) *Presumption of inadmissibility.* Any nonimmigrant alien subject to special

registration who fails, without good cause, to be examined by an inspecting officer at the time of his or her departure and to have his or her departure recorded by the inspecting officer shall thereafter be presumed to be inadmissible under, but not limited to, section 212(a)(3)(A)(ii) of the Act (8 U.S.C. 1182(a)(3)(A)(ii)), as an alien whom the Secretary of Homeland Security has reasonable grounds to believe, based on the alien's past failure to conform with the requirements for special registration, seeks to enter the United States to engage in unlawful activity.

(iii) *Overcoming inadmissibility.* An alien may overcome the presumption of inadmissibility set out in paragraph (f)(8)(ii) by making a showing that he or she satisfies conditions set by the Secretary of Homeland Security and the Secretary of State. If a consular officer, in adjudicating a new visa application by an alien that previously failed to register his or her departure from the United States, finds good cause existed for the alien's failure to register departure or that the alien is not inadmissible under section 212(a)(3)(A)(ii) of the Act, the inspecting officer at the port-of-entry, while not bound by the consular officer's decision, will consider this finding as a significantly favorable factor in determining whether the alien is admissible.

(9) *Completion of registration.* Registration under this paragraph (f) is not deemed to be complete unless all of the information required by the Department of Homeland Security and all requested documents are provided in a timely manner. Any additional re-registration that may be required and each change of material fact is a registration that is required under sections 262 and 263 of the Act (8 U.S.C. 1302, 1303). Each change of address required under this paragraph (f) is a change of address required under section 265 of the Act (8 U.S.C. 1305).

(g) *Registration and fingerprinting of children who reach age 14.* Within 30 days after reaching the age of 14, any alien in the United States not exempt from alien registration under the act and this chapter shall present himself to a Service office for registration in accordance with section 262(b) of the Act, and for fingerprinting unless

fingerprinting is waived pursuant to paragraph (e) of this section. He shall submit Form I-90 if he is a lawful permanent resident. If such alien is a lawful permanent resident of the United States and is temporarily absent from the United States when he reaches the age of 14, he shall comply with the foregoing within 30 days of his return to the United States. The alien, if a lawful permanent resident of the United States, shall surrender his prior evidence of alien registration and shall be issued Form I-551 bearing a photograph submitted by him in accordance with the instructions on Form I-90. In the case of an alien who is not a lawful permanent resident, the alien's Form I-94 or I-95 shall be noted to show that he has been registered and the date of registration.

(h) *Temporary evidence of registration.* Form I-94, appropriately endorsed, may be issued as temporary evidence of registration and lawful admission for permanent residence to a lawful permanent resident alien who is departing temporarily from the United States and has applied on Form I-90 for issuance of Form I-551, if the district director is unable to issue and deliver the Form I-551 prior to the alien's contemplated return to the United States. The alien shall surrender such Form I-94 to the Service upon receipt of Form I-551.

(i) *Copy of Form I-94.* An attorney or representative as defined in §1.1 of this chapter who is representing an alien before the Service or the Board may make and retain, solely for information purposes, a copy of the Form I-94 (Arrival-Departure Record) issued to and in the possession of the alien. Such copy shall not be used for any other purpose.

[25 FR 10495, Nov. 2, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §264.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 264.2 Application for creation of record of permanent residence.

(a) *Jurisdiction.* An applicant who believes that he/she is eligible for presumption of lawful admission for permanent residence under §101.1 or §101.2

of this chapter or 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 his/her application for creation of a record of lawful permanent residence to the Service office having jurisdiction over the applicant's place of residence in the United States. The applicant must be physically present in the United States at the time of submission of his/her application.

(b) *Applicant under eighteen years old.* If the applicant is under eighteen years old, the applicant's parent or legal guardian shall prepare and sign the application in the applicant's behalf.

(c) *Filing application—(1) Presumption of lawful admission for permanent residence.* An applicant who believes that he/she is eligible for presumption of lawful admission for permanent residence under §101.1 or §101.2 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 on the application form and in this section.

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

(iii) [Reserved]

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

(v) A statement signed by the applicant indicating the basis of the applicant's claim to presumption of lawful admission for permanent residence.

(vi) Documentary evidence substantiating the applicant's claim to presumption of lawful admission for permanent residence, including proof of 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

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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) [Reserved]

(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.

(d) *Fingerprinting.* After filing an application, each applicant 14 years of age or older shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in § 103.2(e) of this chapter.

(e) *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.

(f) *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.

(g) *Decision.* The decision regarding creation of a record of lawful permanent residence for an alien eligible for presumption of lawful admission for

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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.

(h) *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.

(i) *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; 63 FR 12987, Mar. 17, 1998]

§ 264.4 [Reserved]

§ 264.5 Application for a replacement Permanent Resident 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 Permanent Resident 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 Permanent Resident 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 Permanent Resident 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.

(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.

(ii) *Data collection form.* An applicant must execute the signature and fingerprint blocks of Form I-89, Data Collection Form, at a Service office when filing an I-90 application.

(3) *Miscellaneous—(i) Fingerprinting.* After filing an I-90 application, each applicant filing under paragraph (b)(8) of this section shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in §103.2(e) of this chapter.

(ii) *Interview.* An applicant may be required to appear before an immigration officer or consular officer and be interviewed under oath concerning eligibility.

(iii) *Waiver of requirements.* The Service may waive the photograph, in person filing, fingerprinting, and I-89 execution requirements of this section in cases of confinement due to advanced age or physical infirmity.

(f) *Decision.* If an application is denied, the applicant shall be notified of the reasons for denial. No appeal shall lie from this decision.

(g) *Eligibility for a card while in deportation or exclusion proceedings.* A person in exclusion proceedings shall be entitled to evidence of permanent resident status until ordered excluded. Such evidence shall be in the form of a temporary Form I-551 issued for a period sufficient to accomplish the exclusion proceedings. A person in deportation

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proceedings shall be entitled to evidence of permanent resident status until ordered deported or excluded. Issuance of an Permanent Resident Card to a person in exclusion or deportation proceedings, provided the person had status as a lawful permanent resident when the proceeding commenced, shall not affect those proceedings.

[58 FR 48779, Sept. 20, 1993, as amended at 59 FR 1466, Jan. 11, 1994; 59 FR 33905, July 1, 1994; 63 FR 12987, Mar. 17, 1998; 63 FR 70316, Dec. 21, 1998; 65 FR 57724, Sept. 26, 2000]

§ 264.6 Application for an initial or replacement Form I-94, Non-immigrant Arrival-Departure Document, or Form I-95, Crewmen's Landing Permit.

(a) *General.* An application for a new or replacement Form I-94 or replacement Form I-95 must be made on Form I-102. The application must be filed with the fee required in §103.7 of this chapter and the initial evidence required on the application form.

(b) *Filing.* An application may be approved if filed by an alien in the United States who:

(1) Applies to replace a lost or stolen Form I-94 or Form I-95 that had been issued to him or her;

(2) Applies to replace a mutilated Form I-94 or Form I-95 issued to him or her; or

(3) Was not issued a Form I-94 pursuant to §235.1(f)(1)(i), (iii), (iv), (v), or (vi) of this chapter, when last admitted as a nonimmigrant, has not since been issued a Form I-94, and now requires a Form I-94.

(c) *Processing.* A pending application filed under paragraph (a) of this section shall be considered temporary evidence of registration. If the application is approved, the document shall be issued. There is no appeal from the denial of an application filed on Form I-102.

[59 FR 1466, Jan. 11, 1994]

PART 265—NOTICES OF ADDRESS

AUTHORITY: Secs. 103, 265 of the Immigration and Nationality Act, as amended by sec. 11, Pub. L. 97-166, 95 Stat. 1617 (8 U.S.C. 1103, 1305).

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§ 265.1 Forms.

Except for those exempted by section 263(b) of the Act, all aliens in the United States required to register under section 262 of the Act shall report each change of address and new address within 10 days on Form AR-11. This form is available at post offices and Service offices in the United States. The completed form must be mailed to the Department of Justice, Immigration and Naturalization Service, Washington, DC 20536.

[47 FR 44239, Oct. 7, 1982]

PART 270—PENALTIES FOR DOCUMENT FRAUD

Sec.

270.1 Definitions.

270.2 Enforcement procedures.

270.3 Penalties.

AUTHORITY: 8 U.S.C. 1101, 1103, and 1324c; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 57 FR 33866, July 31, 1992, unless otherwise noted.

§ 270.1 Definitions.

For the purpose of this part—

Document means an instrument on which is recorded, by means of letters, figures, or marks, matters which may be used to fulfill any requirement of the Act. The term “document” includes, but is not limited to, an application required to be filed under the Act and any other accompanying document or material;

Entity means any legal entity, including, but not limited to, a corporation, partnership, joint venture, governmental body, agency, proprietorship, or association, including an agent or anyone acting directly or indirectly in the interest thereof.

§ 270.2 Enforcement procedures.

(a) *Procedures for the filing of complaints.* Any person or entity having knowledge of a violation or potential violation of section 274C of the Act may submit a signed, written complaint to the Service office having jurisdiction over the business or residence of the potential violator or the location where the violation occurred. The signed, written complaint must