

§ 264.6

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 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 resi-

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dent 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).

§ 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 contain sufficient information to identify both the complainant and the alleged violator, including their names and addresses. The complaint should also contain detailed factual allegations relating to the potential violation including the date, time and place of the alleged violation and the specific act or conduct alleged to constitute a

violation of the Act. Written complaints may be delivered either by mail to the appropriate Service office or by personally appearing before any immigration officer at a Service office.

(b) *Investigation.* When the Service receives complaints from a third party in accordance with paragraph (a) of this section, it shall investigate only those complaints which, on their face, have a substantial probability of validity. The Service may also conduct investigations for violations on its own initiative, and without having received a written complaint. If it is determined after investigation that the person or entity has violated section 274C of the Act, the Service may issue and serve upon the alleged violator a Notice of Intent to Fine.

(c) *Issuance of a subpoena.* Service officers shall have reasonable access to examine any relevant evidence of any person or entity being investigated. The Service may issue subpoenas pursuant to its authority under sections 235(a) and 287 of the Act, in accordance with the procedures set forth in § 287.4 of this chapter.

(d) *Notice of Intent to Fine.* The proceeding to assess administrative penalties under section 274C of the Act is commenced when the Service issues a Notice of Intent to Fine. Service of this notice shall be accomplished by personal service pursuant to § 103.5a(a)(2) of this chapter. Service is effective upon receipt, as evidenced by the certificate of service or the certified mail return receipt. The person or entity identified in the Notice of Intent to Fine shall be known as the respondent. The Notice of Intent to Fine may be issued by an officer defined in § 242.1 of this chapter or by an INS port director designated by his or her district director.

(e) *Contents of the Notice of Intent to Fine.* (1) The Notice of Intent to Fine shall contain the basis for the charge(s) against the respondent, the statutory provisions alleged to have been violated, and the monetary amount of the penalty the Service intends to impose.

(2) The Notice of Intent to Fine shall provide the following advisals to the respondent:

(i) That the person or entity has the right to representation by counsel of