§ 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 on Form I–485 in accordance with the instructions on the form and paragraph (c) of this section. 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 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 as prescribed in 8 CFR 103.16.

(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 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.

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