Sec. 207.2 Applicant processing.

(a) Forms. Each applicant who seeks admission as a refugee shall submit an individual Form I - 590 (Registration for Classification as Refugee). Additionally, each applicant 14 years old or older must submit completed forms G - 325C (Biographical Information) and FD - 258 (Applicant Card).

(b) Hearing. Each applicant 14 years old or older shall appear in person before an immigration officer for inquiry under oath to determine his/her eligibility for admission as a refugee.

(c) Medical examination. Each applicant shall submit to a medical examination as required by sections 221(d) and 234 of the Act.

(d) Sponsorship. Each applicant must be sponsored by a responsible person or organization. Transportation for the applicant from his/her present abode to the place of resettlement in the United States must be guaranteed by the sponsor. (Amended 5/21/99; 64 FR 27660)

Sec. 245.2 Application.

(a) General --

(1) Jurisdiction. USCIS has jurisdiction to adjudicate an application for adjustment of status filed by any alien, unless the immigration judge has jurisdiction to adjudicate the application under 8 CFR 1245.2(a)(1). (Paragraph (a) (1) revised 5/12/06; 71 FR 27585) (Amended 7/1/94; 59 FR 33903) (Paragraph (a)(1) revised effective 4/1/97; 62 FR 10312)

(2) Proper filing of application --

(i) Under section 245. (A) An immigrant visa must be immediately available in order for an alien to properly file an adjustment application under section 245 of the Act See § 245.1(g)(1) to determine whether an immigrant visa is immediately available. (Paragraph (a)(2)(i) revised 7/31/02; 67 FR 49561)

(B) If, at the time of filing, approval of a visa petition filed for classification under section 201(b)(2)(A)(i), section 203(a) or section 203(b)(1), (2) or (3) of the Act would make a visa immediately available to the alien beneficiary, the alien beneficiary's adjustment application will be considered properly filed whether submitted concurrently with or subsequent to the visa petition, provided that it meets the filing requirements contained in parts 103 and 245. For any other classification, the alien beneficiary may file the adjustment application only after the Service has approved the visa petition.

(C) A visa petition and an adjustment application are concurrently filed only if:

(1) The visa petitioner and adjustment applicant each file their respective form at the same time, bundled together within a single mailer or delivery packet, with the proper filing fees on the same day and at the same Service office, or;

(2) the visa petitioner filed the visa petition, for which a visa number has become immediately available, on, before or after July 31, 2002, and the adjustment applicant files the adjustment application, together with the proper filing fee and a copy of the Form I-797, Notice of Action, establishing the receipt and acceptance by the Service of the underlying Form I-140 visa petition, at the same Service office at which the visa petitioner filed the visa petition, or;

(3) The visa petitioner filed the visa petition, for which a visa number has become immediately available, on, before, or after July 31, 2002, and the adjustment applicant files the adjustment application, together with proof of payment of the filing fee with the Service and a copy of the Form I-797 Notice of Action establishing the receipt and acceptance by the Service of the underlying Form I-140 visa petition, with the Immigration Court or the Board of Immigration Appeals when jurisdiction lies under paragraph (a)(1) of this section.

(ii) Under the Act of November 2, 1966. An application for the benefits of section 1 of the Act of November 2, 1966 is not properly filed unless the applicant was inspected and admitted or paroled into the United States subsequent to January 1, 1959. An applicant is ineligible for the benefits of the Act of November 2, 1966 unless he or she has been physically present in the United States for one year (amended from two years by the Refugee Act of 1980).

(3) Submission of documents -- (i) General. A separate application shall be filed by each applicant for benefits under section 245, or the Act of November 2, 1966. Each application shall be accompanied by an executed Form G - 325A, if the applicant has reached his or her 14th birthday. Form G - 325A shall be considered part of the application. An application under this part shall be accompanied by the document specified in the instructions which are attached to the application.

(ii) Under section 245. An application for adjustment of status is submitted on Form I - 485, Application for Permanent Residence. The application must be accompanied by the appropriate fee as explained in the instructions to the application.

(iii) Under section 245(i). An alien who seeks adjustment of status under the provisions of section 245(i) of the Act must file Form I-485, with the required fee. The alien must also file Supplement A to Form I-485, with any required additional sum. (Added 10/1/94; 59 FR 51091)

(iv) Under the Act of November 2, 1966. An application for adjustment of status is made on Form I - 485A. The application must be accompanied by Form I - 643, Health and Human Services Statistical Data Sheet. The application must include a clearance from the local police jurisdiction for any area in the United States when the applicant has lived for

six months or more since his or her 14th birthday. (Redesignated as (iv) 10/1/94; 59 FR 51091)

(4) Effect of departure --

(i) General. The effect of a departure from the United States is dependent upon the law under which the applicant is applying for adjustment.

(ii) Under section 245 of the Act. (A) The departure from the United States of an applicant who is under exclusion, deportation, or removal proceedings shall be deemed an abandonment of the application constituting grounds for termination of the proceeding by reason of the departure. Except as provided in paragraph (a)(4)(ii)(B) and (C) of this section, the departure of an applicant who is not under exclusion, deportation, or removal proceedings shall be deemed an abandonment of the application constituting grounds for termination of any pending application for adjustment of status, unless the applicant was previously granted advance parole by the Service for such absences, and was inspected upon returning to the United States. If the adjustment application of an individual granted advance parole is subsequently denied the individual will be treated as an applicant for admission, and subject to the provisions of section 212 and 235 of the Act. (Paragraph (a)(4)(ii) revised effective 7/1/99; 64 FR 29208)

(B) The travel outside of the United States by an applicant for adjustment who is not under exclusion, deportation, or removal proceedings shall not be deemed an abandonment of the application if he or she was previously granted advance parole by the Service for such absences, and was inspected and paroled upon returning to the United States. If the adjustment of status application of such individual is subsequently denied, he or she will be treated as an applicant for admission, and subject to the provisions of section 212 and 235 of the Act.

(C) The travel outside of the United States by an applicant for adjustment of status who is not under exclusion, deportation, or removal proceeding and who is in lawful H-1 or L-1 status shall not be deemed an abandonment of the application if, upon returning to this country, the alien remains eligible for H or L status, is coming to resume employment with the same employer for whom he or she had previously been authorized to work as an H-1 or L-1 nonimmigrant, and, is in possession of a valid H or L visa (if required). The travel outside of the United States by an applicant for adjustment of status who is not under exclusion, deportation, or removal proceeding and who is in lawful H-4 or L-2 status shall not be deemed an abandonment of the application if the spouse or parent of such alien through whom the H-4 or L-2 status was obtained is maintaining H-1 or L-1 status and the alien remains otherwise eligible for H-4 or L-2 status, and, the alien is in possession of a valid H-4 or L-2 visa (if required). The travel outside of the United States by an applicant for adjustment of status, who is not under exclusion, deportation, or removal proceeding and who is in lawful K-3 or K-4 status shall not be deemed an abandonment of the application if, upon returning to this country, the alien is in possession of a valid K-3 or K-4 visa and remains eligible for K-3 or K-4 status. (Revised 11/1/07; 72 FR 61791)

(D) The travel outside of the United States by an applicant for adjustment of status who is not under exclusion, deportation, or removal proceeding and who is in lawful V status shall not be deemed an abandonment of the application if, upon returning to this country, the alien is admissible as a V nonimmigrant. (Added 9/7/01; 66 FR 46697)

(iii) Under the Act of November 2, 1966. If an applicant who was admitted or paroled subsequent to January 1, 1959, later departs from the United States temporarily with no intention of abandoning his or her residence, and is readmitted or paroled upon return, the temporary absence shall be disregarded for purposes of the applicant's ``last arrival'' into the United States in regard to cases filed under section 1 of the Act of November 2, 1966.

(5) Decision --

(i) General. The applicant shall be notified of the decision of the director and, if the application is denied, the reasons for the denial. (Amended 7/1/94; 59 FR 33903)

(ii) Under section 245 of the Act. If the application is approved, the applicant's permanent residence shall be recorded as of the date of the order approving the adjustment of status. An application for adjustment of status, as a preference alien, shall not be approved until an immigrant visa number has been allocated by the Department of State, except when the applicant has established eligibility for the benefits of Public Law 101-238. No appeal lies from the denial of an application by the director, but the applicant, if not an arriving alien, retains the right to renew his or her application in proceedings under 8 CFR part 240. Also, an applicant who is a parolee and meets the two conditions described in § 245.2(a)(1) may renew a denied application in proceedings under 8 CFR part 240 to determine admissibility. At the time of renewal of the application, an applicant does not need to meet the statutory requirement of section 245(c) of the Act, or § 245.1(g), if, in fact, those requirements were met at the time the renewed application was initially filed with the director. Nothing in this section shall entitle an alien to proceedings under section 240 of the Act who is not otherwise so entitled. (Amended 7/1/94; 59 FR 33903) (Amended 10/1/94; 59 FR 51091) (Revised effective 4/1/97; 62 FR 10312)

(iii) Under the Act of November 2, 1966. If the application is approved, the applicant's permanent residence shall be recorded in accordance with the provisions of section 1. No appeal lies from the denial of an application by the director, but the applicant, if not an arriving alien, retains the right to renew his or her application in proceedings under 8 CFR part 240. Also, an applicant who is a parolee and meets the two conditions described in § 245.2(a)(1) may renew a denied application in proceedings under 8 CFR part 240 to determine admissibility. (Amended 7/1/94; 59 FR 33903) (Revised effective 4/1/97; 62 FR 10312)

Sec. 328.4 Application.

An applicant for naturalization under this part must submit an Application for Naturalization, Form N-400, as provided in § 316.4 of this chapter. The application must be accompanied by Form N-426, Certificate of Military or Naval Service; and Form G-325B, Biographic Form.