

Changes to Processing of Applications for Returning Resident Status

Reference Document: STATE 045077, 5/10

1. SUMMARY. 9 FAM 42.22 Notes has been updated to provide guidance on the processing of applications for special immigrant Returning Resident (SB) visas for lawful permanent resident (LPR) aliens who were unable to return to the United States within the validity of their I-551 Permanent Resident Card or reentry permit. The guidance covers where applicants are able to file their DS-117 Application to Determine Returning Resident Status, how post should process such applications, and new procedures for the creation of a permanent refusal record for denied DS-117 applications.

2. 9 FAM 42.22 N1 will read as follows:

9 FAM 42.22 N1 APPLICATION FOR AND CONSULAR ADJUDICATION OF RETURNING RESIDENT (SB) STATUS

Lawful permanent resident (LPR) aliens who are unable to return to the United States within the travel validity of their Form I-551, Permanent Resident Card, or Reentry permit may apply at a U.S. Embassy or Consulate for a special immigrant Returning Resident (SB-1) visa.

a. An applicant seeking a special immigrant Returning Resident (SB-1) visa must complete Form DS-117, Application to Determine Returning Resident Status.

b. The applicant should file form DS-117 and supporting documentation at the post in the consular district in which he or she currently resides. You may not deny an applicant processing at post solely because your post does not process immigrant visas. However, mission consular management may develop specific processing policies where circumstances would prevent effective evaluation and adjudication of the application at certain posts in country, in which case you may direct the applicant to another post in country that can handle the application. (See 9 FAM 42.61 Notes.)

c. You must conduct a personal interview with the applicant to determine whether the application for Returning Resident status is approvable.

d. If you determine that the applicant has provided sufficient justification and evidence in accordance with 9 FAM 42.22 N1.1-7, then you must obtain supervisory approval from a consular manager, mark form DS-117 as approved, open a case in Immigrant Visa Overseas (IVO), and scan in the approved form DS-117 and supporting documents.

e. If you adjudicated the application at a post where immigrant visas (IVs) are not processed, you must send approved form DS-117 and the supporting documents to the IV-processing post for the consular district where the application was filed for case creation and scanning.

f. If the application is denied, you should enter [redacted] scanned copies of form DS-117 and all supporting documents, and also enter notes supporting the denial decision.

g. Paper copies of the denied form DS-117 and all supporting documents may be destroyed after adjudication and scanning.

h. Approved applicants will proceed with an application for an SB-1 IV. SB-1 interview appointment scheduling will vary based on post's intake procedures. Each post should develop standard operating and intake procedures in order to handle SB-1 cases efficiently. SB-1 applicants are subject to the same medical and security screening that apply to all IV cases.

3. Please refer to 9 FAM 42.22 Notes, <http://arpsdir.a.state.gov/fam/09fam/0942022N.html>, for more detailed guidance and forward further questions on Returning Resident visa processing to [redacted] in CA/VO/F/P.