

Presidential Documents

Title 3—

Proclamation 6345 of October 3, 1991

The President

Veterans Day, 1991

By the President of the United States of America

A Proclamation

Memory is the first measure of gratitude—those who are truly grateful do not forget the service that has been rendered for their sake. Each November we Americans remember in a special way the veterans of the United States Armed Forces. Through their vigilance, courage, and sacrifice, these individuals have helped to secure the freedoms that we so enjoy today—the freedoms that we can sometimes, all too easily, take for granted.

Since President Woodrow Wilson asked that all Americans pause on November 11, 1919, in honor of the Nation's war heroes, Americans have set aside this date to remember and pray for all those patriots who have put themselves in harm's way to defend the lives and liberty of others. As we salute our Nation's veterans, we also remember with solemn pride their fallen comrades, including those heroes who rest "in honored glory . . . known but to God."

There is no irony in the fact that we honor this country's war veterans on the anniversary of Armistice Day, a day dedicated to peace. As was the case during Operation Desert Storm, members of the U.S. military have engaged in armed conflict only as a last resort, only to defend freedom and the rule of law. And we know that these ideals form the only sure foundation for lasting peace among nations.

America's veterans have faced the hellish fires of combat and the chilling presence of mortal danger so that our children and our children's children might dwell in a safer, more peaceful world. The freedom of millions of people around the globe is, in many ways, a living monument to each of them.

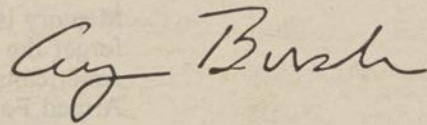
Today thousands of veterans continue to serve our Nation through their families and their communities, helping others to appreciate more fully the value of freedom and the importance of patriotism. These contributions we also remember with thankfulness and pride.

Of course, while memory is the first measure of gratitude, its fullest and most meaningful expression is found in word and deed. We can never repay our veterans for all that they have endured for our sake, but we can show by our actions—on this day and every day of the year—that their great sacrifices are indeed cherished and remembered. Whether we do so on our own or through our schools, businesses, and community organizations, let us convey our thanks to veterans through acts of generosity and kindness. Let us demonstrate, in a special way, our respect and concern for those former service members who are hospitalized or disabled.

In order that we may pay due tribute to those who have served in our Armed Forces, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor America's veterans.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim Monday, November 11, 1991, as Veterans Day. I urge all Americans to honor our veterans through appropriate public ceremonies and private prayers. I also call on Federal, State, and local government officials to display the flag of the United States and to encourage and participate in patriotic activities in their communities. I invite civic and fraternal organizations, churches, schools, businesses, unions, and the media to support this national observance with suitable commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91-24260

Filed 10-4-91; 9:18 am]

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Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 299, 310, 312, 313, 315, 316, 316a, 319, 322, 324, 325, 327, 328, 329, 330, 331, 332, 332a, 332b, 332c, 332d, 333, 334, 334a, 335, 335a, 335c, 336, 337, 338, 339, 340, 343b, 344 and 499

[INS No. 1435-91; AG Order No. 1535-91]

RIN 1115-AC58

Administrative Naturalization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Immigration Act of 1990, Public Law 101-649 (IMMACT) conferred upon the Attorney General, as of October 1, 1991, the responsibility for making final determinations on applications for naturalization. The purpose of this interim regulation is threefold: To implement the new administrative system; to codify, in regulatory form, the essential substantive and procedural requirements for naturalization created by statute and interpreted by judicial precedent; and to make technical and administrative changes to the Code of Federal Regulations as necessary. This rule will increase efficiency in administering the naturalization provisions and will provide additional guidance and clarification to Service officials.

DATES: This interim rule is effective October 1, 1991. Written comments must be submitted no later than November 21, 1991.

ADDRESSES: Please submit written comments in triplicate to Director, Policy Directives and Instructions

Branch, Records Systems Division, Immigration and Naturalization Service, room 5304, 425 I Street, NW., Washington, DC 20536. Please include INS Number 1435-91 on correspondence to ensure proper handling.

FOR FURTHER INFORMATION CONTACT: Stella Jarina, Senior Immigration Examiner, Immigration and Naturalization Service, room 7228, 425 I Street, NW., Washington, DC 20536, telephone: (202) 514-3946.

SUPPLEMENTARY INFORMATION: IMMACT represents the first major change in the naturalization process in nearly eighty-five years. It is intended to facilitate the acquisition of United States citizenship by establishing an administrative naturalization process under the exclusive authority of the Attorney General. IMMACT amends the Immigration and Nationality Act of 1952 (Act) to authorize the Attorney General to naturalize persons as citizens of the United States, to administer the oath of allegiance in public ceremonies, and to issue Certificates of Naturalization. The legislation requires the Immigration and Naturalization Service (INS) to establish specific procedures to implement an administrative naturalization process that conforms to the intent of the law, and achieves the efficiencies desired, while insuring that the integrity and solemnity of the naturalization experience are preserved for future generations.

IMMACT transfers the exclusive jurisdiction to naturalize aliens from its traditional locus in the Judicial Branch to the Executive Branch, subject to judicial review. Under Administrative Naturalization, INS will continue to receive applications for naturalization on a revised N-400 application form and will conduct examinations to determine statutory eligibility for citizenship as before. IMMACT now requires the INS officer who initially examines an applicant to make a formal determination to grant or deny the application within 120 days after the date of first examination. Applicants whose applications are subject to a denial for cause may avail themselves of an administrative review hearing by a second INS officer prior to the INS rendering a final denial determination. The final determination is subject to *de novo* judicial review in United States District Court. In addition, IMMACT permits an applicant for naturalization

to seek appropriate relief in United States District Court if the INS officer conducting the initial examination fails to render a determination within 120 days of the initial examination.

IMMACT permits an eligible candidate for naturalization to elect to have the Oath of Allegiance and Renunciation administered in a public ceremony conducted by INS or in an appropriate Federal Court, State Court, or other court as designated in the statute. Upon INS approval of the application, the applicant will be notified to appear at the Oath Administration Ceremony of his or her choice. With the taking of the oath, the Attorney General authorizes the INS to issue a Certificate of Naturalization which reflects the date of the ceremony. The Administrative Naturalization legislative history suggests that the public ceremonies conducted by INS should be held in accordance with the Attorney General's Model Plan for such induction proceedings so that the proceedings are uniform and preserve the dignity and decorum of the occasion.

IMMACT specifically provides that no new petitions for naturalization may be filed under the judicial naturalization system after October 1, 1991. However, any petition pending with the courts as of that date will be addressed under the provisions of the prior statute, unless the applicant for naturalization requests the timely withdrawal of a petition to permit consideration of the underlying application under the administrative process. Although no petitions may be filed with the courts after October 1, 1991, those courts described in section 310(b) of the Act will be authorized to administer the oath of naturalization to applicants who choose a court ceremony as part of the naturalization process.

IMMACT reduces the jurisdictional residence prerequisite for the filing of an application for naturalization, for those applicants not otherwise exempt, from six months in a State to three months in a State or INS District. In addition, IMMACT permits an applicant to file an application three months in advance of meeting any applicable continuous residence requirements. The applicant may request, in writing, the transfer of a pending application from one INS office to another, subject to the concurrence of the Attorney General.

In order to achieve uniformity and to facilitate the acquisition of United

States citizenship for qualified aliens, the administrative naturalization regulations are drafted to incorporate, to the fullest extent practicable, those judicial precedents and INS interpretations that have been clearly established under the prior statute and that are still applicable to the Act as amended. The purpose of this effort is threefold: to create a logical and more concise approach to the issues of citizenship eligibility; to incorporate those definitions and accepted principles of substantive and procedural naturalization law that the INS will apply in making its determinations; and to achieve greater consistency in decision making by clarifying INS practices and procedures for the benefit of both the public and Service personnel.

While the introduction of Administrative Naturalization is historically significant because it departs from the traditional dual participation by INS and the courts in granting the benefits of citizenship, IMMACT does not significantly alter the substantive requirements for naturalization. Consequently, the regulations provide that applicants for naturalization will continue to submit a modified version of Form N-400 to the INS office having jurisdiction to receive such applications based upon the applicant's county of residence. See 8 CFR 100.4. Part 316 of the regulations lists all basic eligibility factors provided in the Act, including application jurisdiction, documentation, residence in the United States, absences that bear on eligibility, determinations of good moral character, competency, and attachment and favorable disposition to the Constitution and laws of the United States. The regulations also provide procedural guidance regarding the preservation of naturalization eligibility and related matters. Requirements pertaining to the naturalization of children are contained in part 322 of the regulations.

Part 319 of the regulations explains the prerequisites for naturalization of spouses of United States citizens, including those who reside abroad for extended periods under a variety of recognized circumstances, and who seek the benefits of expeditious naturalization. The regulation also addresses the naturalization eligibility of the surviving spouse of a United States citizen who dies while on active-duty service in the Armed Forces of the United States.

Parts 328 and 329 define the eligibility requirements for naturalization of persons who qualify by reason of

honorable service in the Armed Forces of the United States. These parts incorporate certain INS interpretations that have general applicability to both categories of applicants. The regulations pertaining to the implementation of section 405 of IMMACT concerning the naturalization eligibility of certain natives of the Philippines based upon active military service during World War II may be found at 56 FR 11060 (March 15, 1991).

The most significant changes resulting from the passage of IMMACT arise from the authority now conferred upon the Attorney General to make final determinations on applications for naturalization. Under the Designated Examiner system, which dates back to reform provisions of the Naturalization Act of June 29, 1906, 34 Stat. 596, the Attorney General was limited to making recommendations about naturalization eligibility to the courts. With Administrative Naturalization, INS will continue to conduct examinations on applications for naturalization as it did under the prior system. The statute mandates that the INS examiner assigned to the initial examination of the applicant must make a decision to either grant or deny the application within a 120 day period from the date of that examination. As a result, an applicant for naturalization will not have the option, as under the prior statute, to be permitted to "non-file" in those circumstances of *prima facie* ineligibility. Each application must be decided on its merits as either a grant or denial within the statutorily mandated time frame.

Issues of literacy or knowledge of history and government will be determined at the time of initial examination, and an applicant will be afforded one continuance during the 120-day period for the purpose of preparing for retesting. The regulations provide for either uniform testing by INS or the taking of a standardized test of the applicant's knowledge of the history and form of government of the United States. The standardized test resembles the test that is authorized by INS under section 245A(B)(1)(D)(iii) of the Act for Legalization applicants and administered by entities authorized by INS. The regulations also provide for the acceptance of the standardized test conducted under section 245A(B)(1)(D)(iii) of the Act during the second phase of the legalization process.

The 120 day limitation will also apply to the scheduling of reexaminations for any other matters, as may be necessary to enable the examining officer to make a determination on the case. An

applicant for naturalization will also be required to meet his or her burden of proof of eligibility during the same limited time period. The officer will be compelled to deny the application for the applicant's lack of prosecution, or where the applicant fails to establish eligibility for citizenship as required by the statute.

A decision by the examining officer to deny the application for naturalization must be communicated to the applicant in writing, specifying the reasons for the denial and advising the applicant of the right either to accept the decision as final or to file a written request for hearing. A hearing request must be filed within thirty days of the receipt of the denial notice, requesting review by a second immigration officer of equal or higher grade. Because the administrative review process contained in section 336 of the Act is separate and distinct from the initial examination procedures under section 335 of the Act, it is not subject to the 120 day rule. However, such administrative review will be conducted as expeditiously as possible and completed no later than 180 days from the receipt of the applicant's request for hearing. The officer to whom the case is assigned has the authority to affirm, reverse, or modify the determination made by the first examining officer and to render a final determination in the matter.

If the decision at the conclusion of the review process is to issue a final denial determination, the applicant for naturalization will have exhausted the administrative remedies provided by the statute, and may seek *de novo* judicial review in the United States District Court having jurisdiction over the applicant's residence. The statute provides that the applicant may also request a *de novo* hearing on the application in accordance with the rules of the court. Under such judicial review and hearing, if requested, the District Court may either determine the issue or issues of eligibility or remand the matter to INS with appropriate instructions. Similarly, section 336 of the Act also affords an applicant the right to seek judicial review in United States District Court where the examining officer has failed to render a decision within the 120 days allotted.

The Administrative Naturalization system provides that applicants whose applications for naturalization have been approved by INS may choose to have the Oath of Allegiance administered in a public ceremony conducted by INS or an oath ceremony in a court authorized in the statute. Section 337 of the Act provides that

ceremonies conducted by INS shall be public, conducted frequently and at regular intervals, and in keeping with the dignity of the occasion. In order to fulfill this responsibility, all INS offices are required to conduct oath administration ceremonies at least once a month, or more frequently if required to insure the prompt naturalization of approved applicants, and are obligated to follow the guidelines to be established in a Model Plan approved by the Attorney General. In those instances in which an applicant has elected to take the Oath in a court setting, it is the responsibility of the Clerk of Court to notify INS of the applicant's appearance, so that a Certificate of Naturalization may be issued by the Attorney General. The Court must also provide certified copies of orders issued by the Court that relate to the applicant, such as a legal change of name, or any other such relief as the Court may grant.

Upon taking the requisite Oath of Allegiance, all applicants will receive from INS a newly designed Certificate of Naturalization reflecting United States citizenship as having been vested on the date upon which the Oath was taken. Apart from those recordkeeping requirements relating to the functions and duties of the Clerk of Court in section 339 of the Act, the INS will maintain all declarations of intention, as provided for in part 334 of the regulations, and applications for naturalization as part of its permanent records.

Analysis of the Regulation

The following part-by-part analysis of the interim regulation is intended to identify new and amended material in each part. The discussion reflects pertinent changes in content and identifies amending language derived from the implementing provisions of the statute.

Part 310, Naturalization Authority, derives directly from the language of IMMACT, and establishes regulations defining the newly conferred naturalization jurisdiction of the Service as of October 1, 1991. No new petitions for naturalization may be filed under the Judicial Naturalization system of the prior statute on or after that date. The regulations permit the applicant to elect to have the oath of allegiance administered either by the INS or in a court administered oath ceremony. They also address the role of the United States District Court in the process of judicial review for naturalization applications that are not determined within 120 days of initial examination, and the *de novo* review of denial

determinations made by INS. Part 310 reflects the statute's new definition of jurisdiction to file applications for naturalization, providing for three months' residence in a State or INS District where such residency requirements are applicable.

Part 312, Educational Requirements for Naturalization, is amended to reflect the new literacy exemption category of those applicants who are 55 years of age with 15 years lawful permanent resident status. This part also adopts a new standardized testing procedure to achieve uniformity and fairness. In addition to the necessary conforming language, the new part 312 incorporates prior interpretations to clarify eligibility issues.

Part 313, Membership In the Communist Party or Any Other Totalitarian Organizations; Subversives, is a new part based upon existing interpretations and expands the definition of "subversives" to include participants in sabotage and terrorism as described in part 212.

Part 315, Persons Ineligible To Citizenship: Exemption From Military Service, is a new part derived entirely from existing interpretations and identifies specifically those treaties upon which an applicant may rely.

Part 316, General Requirements For Naturalization, is a significant redrafting of this section which contains the basic elements of statutory eligibility for naturalization. With one exception, the new part 316 does not change essential requirements, but does codify the most recent judicial interpretations to serve as a clear and concise explanation of the substantive requirements upon which the INS will base its naturalization determinations. The exception covers the early filing provision of section 334(a) of the Act, and includes in the early filing period the three months required to establish residence in a jurisdiction, if needed to qualify for the early filing privilege. Part 316a.1 has been deleted in its entirety due to its obsolescence. Necessary conforming language changes have been effected throughout the part and § 316a.2 is now incorporated in § 316.21.

Part 319, Special Classes Of Persons Who May Be Naturalized: Spouses Of United States Citizens, has been rewritten to include the three months' residence required to establish jurisdiction in a State or district in the three year period if needed to satisfy the early filing provisions of section 334(a) of the Act. The section has also been revised to clarify the factors and circumstances of eligibility for expeditious naturalization by drawing

definitions and standards directly from the statute and existing judicial interpretations.

Part 322, Special Classes of Persons Who May Be Naturalized: Children Of Citizen Parent, has been redrafted to clarify issues of eligibility and procedure by incorporating existing judicial interpretations to provide more precise definitions with respect to children who may qualify for naturalization and the circumstances justifying expeditious naturalization consistent with the comparable provisions of part 319.

Part 324, Special Classes Of Persons Who May Be Naturalized: Women Who Have Lost United States Citizenship By Marriage, has been rewritten to incorporate the essential language of the prior part 324 and to conform necessary references relevant to the application and oath administration process.

Part 325, Nationals But Not Citizens Of The United States; Residence Within Outlying Possessions, is a new part deemed necessary to clarify the statutory basis for naturalization and to provide guidance in procedural matters.

Part 327, Special Classes Of Persons Who May Be Naturalized: Persons Who Lost United States Citizenship Through Service In Armed Forces Of Foreign Country During World War II, incorporates existing interpretations to describe eligibility factors and procedures under the conforming amendments of the new statute.

Part 328, Special Classes Of Persons Who May Be Naturalized: Persons With Three Years Service In The Armed Forces Of The United States, defines eligibility and provides specific definitions drawn from relevant judicial interpretations applicable to matters such as jurisdiction to file applications and good moral character.

Part 329, Special Classes Of Persons Who May Be Naturalized: Naturalization Based Upon Active Duty Service In The United States Armed Forces During Specified Periods of Hostilities, specifically defines qualifying periods of honorable service and clarifies the statutory authority for ease of reading and to provide a single source of reference.

Part 330, Special Classes Of Persons Who May Be Naturalized: Seamen, is expanded from the language of the statute and existing judicial interpretations to address the matter of eligibility, jurisdiction for filing applications, and the authentication of documents to satisfy the honorable service and good moral character requirements of the Act.

Part 331, Alien Enemies; Naturalization Under Specified

Conditions And Procedures, is a new addition to the regulations, drawing both definitions and procedural guidance from present interpretations.

Part 332, Naturalization Administration, is the new title for the prior part 332, "Preliminary Investigation Of Applicants For Naturalization And Witnesses," which was superseded by IMMACT and the implementation of Administrative Naturalization. The new part modifies the structure of its predecessor by eliminating parts 332b, 332c and 332d and incorporating them into a single part 332.

Part 332a, Official Forms, has been eliminated, and those forms to be designated for the purpose of Administrative Naturalization and its implementation will be found in part 499, Nationality Forms. Part 332 is amended to remove references to procedures relating to investigations conducted preliminary to the filing of petitions for naturalization. However, the description of the proper scope and conduct of an investigation of applicants is preserved in part 335, as is the permissible use of the investigation record in making final determinations as to the eligibility of an applicant for naturalization under the new process.

Part 333, Photographs, is revised to change the language from petitioner to applicant, as in all other parts of this chapter. The regulation specifies the use of ADIT-type photographs in the naturalization process, in lieu of the traditional full frontal passport quality photographs. This change, which brings all INS photograph requirements into conformity, will permit deleting certain personal descriptive references on the Certificate of Naturalization, such as hair color, eye color, and complexion.

Part 334, Application For Naturalization, formerly "Petition for Naturalization," is completely rewritten to eliminate the concept of petitioning used under the preceding statute. The new part retitles the traditional N-400 as "Application for Naturalization," and addresses the procedural requirements now applicable. The revised part provides for the filing of the application and its authorized amendment and describes the process for filing a Declaration Of Intention, now issued by INS rather than by a Clerk of Court and maintained in INS's records.

Part 335, Examination On Application For Naturalization, is also retitled as a result of IMMACT, from its original designation as "Preliminary Examination On Petitions For Naturalization." In addition to eliminating all references to the Petition For Naturalization, the new part draws

directly from the statute, which mandates INS to continue to examine applicants for naturalization as under the judicial system and to make final determinations on applications for naturalization, subject to judicial review. The contents of the part continue to reflect the issues and procedures that remain unchanged under the administrative naturalization authority.

Part 336, Hearings On Denials Of Applications For Naturalization, supersedes the predecessor part 336, "Proceedings Before Naturalization Court." IMMACT provides that an applicant for naturalization must be accorded an administrative review within INS of any proposed determination to deny naturalization after examination under part 335. The interim regulation reflects the statutory mandate that INS must serve a written notice of denial upon an applicant no later than 120 days after the initial examination. The notice shall afford the applicant a clear, concise statement of the reasons for the denial, and shall fully advise the applicant of the right to request a hearing on the decision of the examining officer with a second immigration officer. Upon filing a request for a hearing within 30 days after the receipt of the Notice of Denial, the applicant will be scheduled, within a reasonable period of time not to exceed 180 days, for an administrative review hearing before an immigration officer of equal or higher grade to that of the examining officer. A person whose application is denied after exhausting all administrative remedies provided in this part may seek *de novo* judicial review in the United States District Court having proper jurisdiction over his or her residence. Any petition for review must be filed in accordance with the Rules of Court requiring service of notice of action upon the Attorney General and that official of INS in charge of the Service District or Suboffice in which the Office of the Clerk of Court is located.

Part 337, Oath of Allegiance, is rewritten to conform to the statutory language providing the INS with the authority to administer the oath of allegiance in administrative ceremonies, while affording applicants for naturalization the option to elect having the oath administered in a court ceremony setting. The substance of the oath of allegiance remains unaltered and the effective date of naturalization is the date upon which the oath is administered.

Part 338, Certificate of Naturalization, is revised to provide for the administrative issuance of Certificates

of Naturalization by INS under the authority of the Attorney General, with such documents reflecting the date of citizenship as the date upon which the oath of allegiance is administered. The regulation provides the mechanism for the execution, issuance, and delivery of certificates, as well as the manner of endorsement in case of name change and the correction of certificates subsequent to delivery by INS.

Part 339, Functions And Duties Of Clerks of Court Regarding Naturalization Proceedings, eliminates all references to petitions and naturalization hearings under the prior statute. The present statute requires the clerk of each court that administers oaths of allegiance to issue, to each person to whom such an oath is administered, a document evidencing that such an oath was administered and to forward to the Attorney General necessary verification of such oath administration. The clerk must also forward evidence of related matters within thirty days after the close of the month in which the oath was administered. In addition, the Clerk of Court will submit to INS a monthly report of all petitions for *de novo* review filed with the court. The report will contain the petitioner's name, alien registration number, date of filing of the petition for *de novo* review, a *de novo* hearing, if requested, and, once an order has been entered, the disposition made by the Court.

Part 340, Revocation Of Naturalization, retains the statutory basis for revocations of naturalization and attendant procedures. In addition, the regulation addresses the procedures to correct, reopen, alter, modify, or vacate an order naturalizing a person.

Part 343b, Special Certificate of Naturalization for Recognition by a Foreign State, is amended by a forms consolidation project which was undertaken concurrent with this regulation package. Form N-577 was deleted and Form N-565, Application for Replacement Certificates, was amended to include the provisions of part 343b.

Part 344, Fees Collected By Clerks of Court, is modified to permit the United States District Courts to collect fees related to any service performed by the courts concerning naturalization proceedings as authorized by statute.

This rule also amends the listing of forms contained in 8 CFR 299.5 and 499.1, and adds a fee to 8 CFR 103.7(b) for filing a notice of appeal.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial

number of small entities. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based upon the "good cause" exception found at 5 U.S.C. 553 (d)(3). Section 408(b) of IMMACT specifically authorizes the Attorney General to promulgate regulations on an interim final basis to implement, in a timely manner, changes made to the Administrative Naturalization provisions of the Act. Those changes, which remove naturalization authority from the courts and confer it upon the Attorney General, become effective on October 1, 1991. Unless this regulation is issued in interim final form, no administrative procedures will exist on October 1 for the processing and determination of naturalization applications. This situation would result in delay, since the Service could not act to schedule interviews for naturalization or otherwise to process applications until regulations became effective. Accordingly, publication of this rulemaking on an interim basis is necessary in order to ensure efficient operation of the naturalization process. The Service will accept comments after publication, and will make such adjustments to the regulations as are necessary to address valid concerns.

New information collection requirements contained in this regulation have been submitted to the Office of Management and Budget for review and approval under the provisions of the Paperwork Reduction Act. Control numbers for previously approved information collections are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedures, Archives and records, Authority delegations (Government agencies), Fees, Forms, Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 299

Citizenship and naturalization, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 310

Citizenship and naturalization, Courts.

8 CFR Part 312

Citizenship and naturalization, Education.

8 CFR Part 313

Citizenship and naturalization.

8 CFR Part 315

Armed forces, Citizenship and naturalization, Selective service system, Treaties.

8 CFR Part 316

Citizenship and naturalization, International organizations, Reporting and recordkeeping requirements.

8 CFR Part 316a

Citizenship and naturalization, Immigration and Nationality Act, Residence.

8 CFR Part 319

Citizenship and naturalization, Reporting and recordkeeping requirements.

8 CFR Part 322

Citizenship and naturalization, Infants and children, Reporting and recordkeeping requirements.

8 CFR Part 324

Citizenship and naturalization, Reporting and recordkeeping requirements, Women.

8 CFR Part 325

Citizenship and naturalization, Reporting and recordkeeping requirements.

8 CFR Part 327

Citizenship and naturalization, Military personnel, Reporting and recordkeeping requirements.

8 CFR Part 328

Citizenship and naturalization, Military personnel, Reporting and recordkeeping requirements.

8 CFR Part 329

Citizenship and naturalization, Military personnel, Reporting and recordkeeping requirements, Veterans.

8 CFR Part 330

Citizenship and naturalization, Reporting and recordkeeping requirements, Seamen.

8 CFR Part 331

Aliens, Citizenship and naturalization.

8 CFR Part 332

Citizenship and naturalization, Education, Reporting and recordkeeping requirements.

8 CFR Part 332a

Citizenship and naturalization, Courts.

8 CFR Part 332b

Citizenship and naturalization, Education.

8 CFR Part 332c

Citizenship and naturalization.

8 CFR Part 332d

Authority delegations (Government agencies), Citizenship and naturalization.

8 CFR Part 333

Citizenship and naturalization.

8 CFR Part 334

Administrative practice and procedure, Citizenship and naturalization, Courts, Reporting and recordkeeping requirements.

8 CFR Part 334a

Citizenship and naturalization, Reporting and recordkeeping requirements.

8 CFR Part 335

Administrative practice and procedure, Authority delegations (Government agencies), Citizenship and naturalization, Reporting and recordkeeping requirements.

8 CFR Part 335a

Citizenship and naturalization.

8 CFR Part 335c

Citizenship and naturalization.

8 CFR Part 336

Citizenship and naturalization, Courts, Hearing and appeal procedures, Reporting and recordkeeping requirements.

8 CFR Part 337

Citizenship and naturalization.

8 CFR Part 338

Citizenship and naturalization, Reporting and recordkeeping requirements.

8 CFR Part 339

Citizenship and naturalization, Courts, Reporting and recordkeeping requirements.

8 CFR Part 340

Citizenship and naturalization, Law enforcement.

8 CFR Part 343b

Citizenship and naturalization, Reporting and recordkeeping requirements.

8 CFR Part 344

Citizenship and naturalization, Courts.

8 CFR Part 499

Citizenship and naturalization.

Accordingly, title 8, chapter I, parts 103 and 299, and subchapter C of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.7 is amended by:

a. Removing, in paragraph (b)(1), forms N-402 and N-577; and

b. Adding, in proper numerical sequence to the list of forms in paragraph (b)(1), forms N-300 and N-336, and revising the references to forms N-400 and N-565 in that paragraph to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Form N-300. For filing application for declaration of intention—\$70.00

Form N-336. For filing request for hearing on a decision in naturalization proceedings under section 336 of the Act—\$110.00

* * * * *

Form N-400. For filing application for naturalization—\$90.00

* * * * *

Form N-565. For filing application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated or destroyed; for a certificate of citizenship in a changed name under section 343 (b) or (d) of the Act; or for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(c) of the Act—\$50.00

* * * * *

c. Removing paragraph (b)(3).

PART 299—IMMIGRATION FORMS

3. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

4. Section 299.5 is amended by revising the reference to form N-400 to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
N-400	Application for Naturalization.	1115-0009
*	*	*

SUBCHAPTER C—NATIONALITY REGULATIONS

5. Part 310 is added to read as follows:

PART 310—NATURALIZATION AUTHORITY

Sec.

310.1 Administrative naturalization authority.

310.2 Jurisdiction to accept applications for naturalization.

310.3 Administration of the oath of allegiance.

310.4 Judicial naturalization authority and withdrawal of petitions.

310.5 Judicial review.

Authority: 8 U.S.C. 1103, 1421, 1443, 1447, 1448; 8 CFR 2.1.

§ 310.1 Administrative naturalization authority.

(a) *Attorney General.* Commencing October 1, 1991, section 310 of the Act confers the sole authority to naturalize persons as citizens of the United States upon the Attorney General.

(b) *Commissioner of the Immigration and Naturalization Service.* Pursuant to § 2.1 of this chapter, the Commissioner of the Immigration and Naturalization Service is authorized to perform such acts as are necessary and proper to implement the Attorney General's authority under the provisions of section 310 of the Act.

§ 310.2 Jurisdiction to accept applications for naturalization.

The Service shall accept an application for naturalization from an applicant who is subject to a continuous residence requirement under section 316(a) or 319(a) of the Act as much as three months before the date upon which the applicant would otherwise satisfy such continuous residence requirement in the State or Service district where residence is to be established for naturalization purposes. At the time of examination on the application, the applicant will be required to prove that he or she satisfies the residence requirements for the residence reflected in the application.

§ 310.3 Administration of the oath of allegiance.

An applicant for naturalization may elect, at the time of filing of, or at the examination on, the application, to have the oath of allegiance and renunciation under section 337(a) of the Act administered in a public ceremony conducted by the Service or by any court described in section 310(b) of the Act. The jurisdiction of all such courts specified to administer the oath of allegiance shall extend only to those persons who are resident within the respective jurisdictional limits of such courts, except as otherwise provided in section 316(f)(2) of the Act.

§ 310.4 Judicial naturalization authority and withdrawal of petitions.

(a) *Jurisdiction.* No court shall have jurisdiction under section 310(a) of the Act, to naturalize a person unless a petition for naturalization with respect to that person was filed with the naturalization court before October 1, 1991.

(b) *Withdrawal of petitions.* (1) In the case of any petition for naturalization which was pending in any court as of November 29, 1990, the petitioner may elect to withdraw such petition, and have the application for naturalization considered under the administrative naturalization process. Such petition must be withdrawn after October 1, 1991, but not later than December 31, 1991.

(2) Except as provided in paragraph (b)(1) of this section, the petitioner shall not be permitted to withdraw his or her petition for naturalization, unless the Attorney General consents to the withdrawal.

(c) *Judicial proceedings.* (1) All pending petitions not withdrawn in the manner and terms described in paragraph (b) of this section, shall be decided, on the merits, by the naturalization court, in conformity with the applicable provisions of the judicial naturalization authority of the prior statute. The reviewing court shall enter a final order.

(2) In cases where the petitioner fails to prosecute his or her petition, the court shall decide the petition upon its merits unless the Attorney General moves that the petition be dismissed for lack of prosecution.

§ 310.5 Judicial review.

(a) *After 120 days following examination.* An applicant for naturalization may seek judicial review of a pending application for naturalization in those instances where the Service fails to make a

determination under section 335 of the Act within 120 days after an examination is conducted under part 335 of this chapter. An applicant shall make a proper application for relief to the United States District Court having jurisdiction over the district in which the applicant resides. The court may either determine the issues brought before it on their merits, or remand the matter to the Service with appropriate instructions.

(b) *After denial of an application.* After an application for naturalization is denied following a hearing before a Service officer pursuant to section 336(a) of the Act, the applicant may seek judicial review of the decision pursuant to section 310 of the Act.

6. Part 312 is revised to read as follows:

PART 312—EDUCATIONAL REQUIREMENTS FOR NATURALIZATION

Sec.

312.1 Literacy requirements.

312.2 Knowledge of history and government of the United States.

312.3 Standardized citizenship testing.

312.4 Selection of interpreter.

312.5 Failure to meet educational and literacy requirements.

Authority: 8 U.S.C. 1103, 1423, 1443, 1447, 1448.

§ 312.1 Literacy requirements.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, no person shall be naturalized as a citizen of the United States upon his or her own application unless that person can demonstrate an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language.

(b) *Exceptions.* The following persons need not demonstrate an ability to read, write and speak words in ordinary usage in the English language:

(1) A person who, on the date of filing of his or her application for naturalization, is over 50 years of age and has been living in the United States for periods totalling at least 20 years subsequent to a lawful admission for permanent residence;

(2) A person who, on the date of filing his or her application for naturalization, is over 55 years of age and has been living in the United States for periods totalling at least 15 years subsequent to a lawful admission for permanent residence; or

(3) A person who is physically unable to comply with the literacy requirements due to a permanent disability such as blindness or deafness. A person who

has a general incapacity to learn either because of developmental disability or advanced age may not ordinarily be considered to be physically unable to comply with the literacy requirements.

(c) *Literacy examination.* (1) *Verbal Skills.* The ability of an applicant to speak English shall be determined by a designated examiner from the applicant's answers to questions normally asked in the course of the examination.

(2) *Reading and writing skills.* Except as noted in § 312.3, an applicant's ability to read and write English shall be tested using excerpts from one or more parts of the Service authorized Federal Textbooks on Citizenship written at the elementary literacy level, Service publications M-289 and M-291. These textbooks may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, and are available at certain public educational institutions. An applicant's writing sample shall be retained in the applicant's Service file.

§ 312.2 Knowledge of history and government of the United States.

(a) *General.* No person shall be naturalized as a citizen of the United States upon his or her own application unless that person can demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States. A person who is exempt from the literacy requirement under § 312.1(b) must still satisfy this requirement.

(b) *History and government examination—(1) Procedure.* The examination of an applicant's knowledge of the history and form of government of the United States shall be given by a designated examiner in the English language unless:

(i) The applicant is exempt from the English literacy requirement under § 312.1(b), in which case the examination may be conducted in the applicant's native language with the assistance of an interpreter selected in accordance with § 312.4 of this part, but only if the applicant's command of spoken English is insufficient to conduct a valid examination in English;

(ii) The applicant is required to satisfy and has satisfied the English literacy requirement under § 312.1(d), but the officer conducting the examination determines that an inaccurate or incomplete record of the examination would result if the examination on technical or complex issues were conducted in English. In such a case the examination may be conducted in the

applicant's native language, with the assistance of an interpreter selected in accordance with § 312.4;

(iii) The applicant has met the requirements of § 312.3.

(2) *Scope and substance.* The scope of the examination shall be limited to subject matters covered in the Service authorized Federal Textbooks on Citizenship except for the identity of current officeholders. In choosing the subject matters, in phrasing questions and in evaluating responses, due consideration shall be given to the applicant's education, background, age, length of residence in the United States, opportunities available and efforts made to acquire the requisite knowledge, and any other elements or factors relevant to an appraisal of the adequacy of the applicant's knowledge and understanding.

§ 312.3 Standardized citizenship testing.

(a) An applicant for naturalization may satisfy the reading and writing requirements of § 312.1 and the knowledge requirements of § 312.2 by passing a standardized citizenship test given by an entity authorized by the Service to conduct such a test. An applicant who passes a standardized citizenship test within one (1) year of the date on which he or she submits an application for naturalization shall not be reexamined at the Service naturalization interview on his or her ability to read and write English or on his or her knowledge of the history and form of government of the United States, unless the Service believes that the applicant's test results were obtained through fraud or misrepresentation. The applicant must still demonstrate his or her ability to speak English in accordance with § 312.1(c)(1). An applicant who has failed a standardized citizenship test may continue to pursue the application with the Service, and will not be prejudiced by that failure during an examination conducted by the Service under §§ 312.1 and 312.2.

(b) An applicant who has obtained lawful permanent resident alien status pursuant to section 245A of the Act, and who, at that time demonstrated English language proficiency in reading and writing, and knowledge of the government and history of the United States through either an examination administered by the Service or a standardized section 312 test authorized by the Service for use with Legalization applicants as provided in section 245A(b)(1)(D)(iii) of the Act, will not be reexamined on those skills at the time of the naturalization interview. However, such applicant must still establish

eligibility for naturalization through testimony in the English language.

§ 312.4 Selection of interpreter.

An interpreter to be used under § 312.2 may be selected either by the applicant or by the Service. However, the Service reserves the right to disqualify an interpreter provided by the applicant in order to insure the integrity of the examination. Where the Service disqualifies an interpreter, the Service must provide another interpreter for the applicant.

§ 312.5 Failure to meet educational and literacy requirements.

(a) An applicant for naturalization who fails the English literacy or history and government test at the first examination will be afforded a second opportunity to pass the test(s) within 90 days after the first examination.

(b) If an applicant who receives notice of the second scheduled examination date fails to appear for that second examination without prior notification to the Service, the applicant will be deemed to have failed this second examination. Before an applicant may request a postponement of the second examination to a date that is more than 90 days after the initial examination, the applicant must agree in writing to waive the requirement under section 336 of the Act that the Service must render a determination on the application within 120 days from the initial interview, and instead to permit the Service to render a decision within 120 days from the second interview.

7. Part 313 is added to read as follows:

PART 313—MEMBERSHIP IN THE COMMUNIST PARTY OR ANY OTHER TOTALITARIAN ORGANIZATIONS; SUBVERSIVES

Sec.

313.1 Definitions.

313.2 Prohibitions.

313.3 Statutory exemptions.

313.4 Procedure.

Authority: 8 U.S.C. 1103, 1424, 1443.

§ 313.1 Definitions.

For purposes of this part:

Advocate includes, but is not limited to, advising, recommending, furthering by overt act, or admitting a belief in a doctrine, and may include the giving, lending, or promising of support or of money or any thing of value to be used for advocating such doctrine.

Advocating Communism means advocating the establishment of a totalitarian communist dictatorship, including the economic, international, and governmental doctrines of world communism, in all countries of the world

through the medium of an internationally coordinated communist revolutionary movement.

Affiliation with an organization includes, but is not limited to, the giving, lending, or promising of support or of money or any thing of value, to that organization to be used for any purpose.

Circulate includes circulating, distributing, or displaying a work.

Communist Party includes:

(1) The Communist Party of the United States;

(2) The Communist Political Association;

(3) The Communist Party of any state of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state;

(4) Any section, subsidiary, branch, affiliate, or subdivision of any such association or party;

(5) The direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt; and

(6) Any communist-action or communist-front organization that is registered or required to be registered under section 786 of title 50 of the United States Code, provided that the applicant knew or had reason to believe, while he or she was a member, that such organization was a communist-front organization.

Organization includes, but is not limited to, an organization, corporation, company, partnership, association, trust, foundation, or fund, and any group of persons, whether incorporated or not, permanently or temporarily associated together for joint action on any subject or subjects.

Publication or *publishing* of a work includes writing or printing a work; permitting, authorizing, or consenting to the writing or printing of a work; and paying for the writing or printing of a work.

Subversive is any individual who advocates or teaches:

(1) Opposition to all organized government;

(2) The overthrow, by force or violence or other unconstitutional means, of the Government of the United States or of all forms of law;

(3) The duty, necessity, or propriety of the unlawful assaulting or killing, either individually or by position, of any officer or officers of the United States or of any other organized government, because of his, her, or their official character;

(4) The unlawful damage, injury, or destruction of property;

(5) Sabotage; or

(6) Terrorist activities or the engaging in terrorist activities, as defined in section 212(a)(3)(B) (ii) and (iii) of the Act.

Totalitarian dictatorship and *totalitarianism* refer to systems of government not representative in fact and characterized by:

(1) The existence of a single political party, organized on a dictatorial basis, with so close an identity between the policies of such party and the government policies of the country in which the party exists that the government and the party constitute an indistinguishable unit; and

(2) The forcible suppression of all opposition to such a party.

Totalitarian party includes:

(1) Any party in the United States which advocates totalitarianism;

(2) Any party in any State of the United States, in any foreign state, or in any political or geographical subdivision of any foreign state which advocates or practices totalitarianism;

(3) Any section, subsidiary, branch, affiliate, or subdivision of any such association or party; and

(4) The direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt.

§ 313.2 Prohibitions.

Except as provided in § 313.3, no applicant for naturalization shall be naturalized as a citizen of the United States if, within ten years immediately preceding the filing of an application for naturalization or after such filing but before taking the oath of citizenship, such applicant:

(a) Is or has been a member of or affiliated with the Communist Party or any other totalitarian party; or

(b) Is or has advocated communism or the establishment in the United States of a totalitarian dictatorship; or

(c) Is or has been a member of or affiliated with an organization that advocates communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterance or through any written or printed matter published by such organization; or

(d) Is or has been a subversive, or a member of, or affiliated with, a subversive organization; or

(e) Knowingly is publishing or has published any subversive written or printed matter, or written or printed matter advocating communism; or

(f) Knowingly circulates or has circulated, or knowingly possesses or has possessed for the purpose of

circulating, subversive written or printed matter, or written or printed matter advocating communism; or

(g) Is or has been a member of, or affiliated with, any organization that publishes or circulates, or that possesses for the purpose of publishing or circulating, any subversive written or printed matter, or any written or printed matter advocating communism.

§ 313.3 Statutory exemptions.

(a) *General.* An applicant shall bear the burden of establishing that classification in one of the categories listed under § 313.2 is not a bar to naturalization.

(b) *Exemptions.* Despite membership in or affiliation with an organization covered by § 313.2, an applicant may be naturalized if the applicant establishes that such membership or affiliation is or was:

- (1) Involuntary;
- (2) Without awareness of the nature or the aims of the organization, and was discontinued if the applicant became aware of the nature or aims of the organization;
- (3) Terminated prior to the attainment of age sixteen by the applicant, or more than ten years prior to the filing of the application for naturalization;
- (4) By operation of law; or
- (5) Necessary for purposes of obtaining employment, food rations, or other essentials of living.

(c) *Awareness and participation—(1) Exemption applicable.* The exemption under paragraph (b)(2) of this section may be found to apply only to an applicant whose participation in the activities of an organization covered under § 313.2 was minimal in nature, and who establishes that he or she was unaware of the nature of the organization while a member of the organization.

(2) *Exemptions inapplicable.* The exemptions under paragraphs (b)(4) and (b)(5) of this section will not apply to any applicant who served as a functionary of an organization covered under § 313.2, or who was aware of and believed in the organization's doctrines.

(d) *Essentials of living—(1) Exemption applicable.* The exemption under paragraph (b)(5) of this section may be found to apply only to an applicant who can demonstrate:

(i) That membership in the covered organization was necessary to obtain the essentials of living like food, shelter, clothing, employment, and an education, which were routinely available to the rest of the population—for purposes of this exemption, higher education will qualify as an essential of living only if the applicant can establish the existence

of special circumstances which convert the need for higher education into a need as basic as the need for food or employment; and,

(ii) That he or she participated only to the minimal extent necessary to receive the essential of living.

(2) *Exemption inapplicable.* The exemption under paragraph (b)(5) of this section will not be applicable to an applicant who became a member of an organization covered under 313.2 to receive certain benefits:

- (i) Without compulsion from the governing body of the relevant country; or
- (ii) Which did not qualify as essentials of living.

§ 313.4 Procedure.

In all cases in which the applicant claims membership or affiliation in any of the organizations covered by § 313.2, the applicant shall attach to the application a detailed written statement describing such membership or affiliation, including the periods of membership or affiliation, whether the applicant held any office in the organization, and whether membership or affiliation was voluntary or involuntary. If the applicant alleges that membership or affiliation was involuntary, or that one of the other exemptions in § 313.3 applies, the applicant's statement shall set forth the basis of that allegation.

8. Part 315 is added to read as follows:

PART 315—PERSONS INELIGIBLE TO CITIZENSHIP: EXEMPTION FROM MILITARY SERVICE

Sec.

- 315.1 Definitions.
- 315.2 Ineligibility and exceptions.
- 315.3 Evidence.
- 315.4 Exemption treaties.

Authority: 8 U.S.C. 1103, 1443.

§ 315.1 Definitions.

As used in this part:

Exemption from military service means either:

(1) A permanent exemption from induction into the Armed Forces or the National Security Training Corps of the United States for military training or military service; or

(2) The release or discharge from military training or military service in the Armed Forces or in the National Security Training Corps of the United States.

Induction means compulsory entrance into military service of the United States whether by conscription or, after being notified of a pending conscription, by enlistment.

Treaty national means an alien who is a national of a country with which the United States has a treaty relating to the reciprocal exemption of aliens from military training or military service.

§ 315.2 Ineligibility and exceptions.

(a) *Ineligibility.* Except as provided in paragraph (b) of this section, any alien who has requested, applied for, and obtained an exemption from military service on the ground that he or she is an alien shall be ineligible for approval of his or her application for naturalization as a citizen of the United States.

(b) *Exceptions.* The prohibition in paragraph (a) of this section does not apply to an alien who establishes by clear and convincing evidence that:

(1) At the time that he or she requested an exemption from military service, the applicant had no liability for such service even in the absence of an exemption;

(2) The applicant did not request or apply for the exemption from military service, but such exemption was automatically granted by the United States government;

(3) The exemption from military service was based upon a ground other than the applicant's alienage;

(4) In claiming an exemption from military service, the applicant did not knowingly and intentionally waive his or her eligibility for naturalization because he or she was misled by advice from a competent United States government authority, or from a competent authority of the government of his or her country of nationality, of the consequences of applying for an exemption from military service and was, therefore, unable to make an intelligent choice between exemption and citizenship;

(5) The applicant applied for and received an exemption from military service on the basis of alienage, but was subsequently inducted into the Armed Forces, or the National Security Training Corps, of the United States; however, an applicant who voluntarily enlists in and serves in the Armed Forces of the United States, after applying for and receiving an exemption from military service on the basis of alienage, does not satisfy this exception to paragraph (a) of this section;

(6) Prior to requesting the exemption from military service:

(i) The applicant was a treaty national who had served in the armed forces of the country of which he or she was a national; however, a treaty national who did not serve in the armed forces of the country of nationality prior to requesting

the exemption from military service does not satisfy this exception to paragraph (a) of this section;

(ii) The applicant served a minimum of eighteen months in the armed forces of a nation that was a member of the North Atlantic Treaty Organization at the time of the applicant's service; or

(iii) The applicant served a minimum of twelve months in the armed forces of a nation that was a member of the North Atlantic Treaty Organization at the time of the applicant's service, provided that the applicant applied for registration with the Selective Service Administration after September 28, 1971; or

(7) The applicant is applying for naturalization pursuant to section 329 of the Act.

§ 315.3 Evidence.

(a) The records of the Selective Service System and the military department under which the alien served shall be conclusive evidence of whether the alien was relieved or discharged from liability for military service because he or she was an alien.

(b) The regulations of the Selective Service Administration and its predecessors will be controlling with respect to the requirement to register for, and liability for, service in the Armed Forces of the United States.

§ 315.4 Exemption treaties.

(a) The following countries currently have effective treaties providing reciprocal exemption of aliens from military service:

Argentina (Art. X, 10 Stat. 1005, 1009, effective 1853)
Austria (Art. VI, 47 Stat. 1876, 1880, effective 1928)
China (Art. XIV, 63 Stat. 1299, 1311, effective 1946)
Costa Rica (Art. IX, 10 Stat. 916, 921, effective 1851)
Estonia (Art. VI, 44 Stat. 2379, 2381, effective 1925)
Honduras (Art. VI, 45 Stat. 2618, 2622, effective 1927)
Ireland (Art. III, 1 US 785, 789, effective 1950)
Italy (Art. XIII, 63 Stat. 2255, 2272, effective 1948)
Latvia (Art. VI, 45 Stat. 2641, 2643, effective 1928)
Liberia (Art. VI, 54 Stat. 1739, 1742, effective 1938)
Norway (Art. VI, 47 Stat. 2135, 2139, effective 1928)
Paraguay (Art. XI, 12 Stat. 1091, 1096, effective 1859)
Spain (Art. V, 33 Stat. 2105, 2108, effective 1902)
Switzerland (Art. II, 11 Stat. 587, 589, effective 1850)
Yugoslavia (Serbia) (Art. IV, 22 Stat. 963, 964, effective 1881)

(b) The following countries previously had treaties providing for reciprocal exemption of aliens from military service:

El Salvador (Art. VI, 46 Stat. 2817, 2821, effective 1926 to February 8, 1958)
Germany (Art. VI, 44 Stat. 2132, 2136, effective 1923 to June 2, 1954)
Hungary (Art. VI, 44 Stat. 2441, 2445, effective 1925 to July 5, 1952)
Thailand (Siam) (Art. 1, 53 Stat. 1731, 1732, effective 1937 to June 8, 1968)

9. A new part 316 is added to read as follows:

PART 316—GENERAL REQUIREMENTS FOR NATURALIZATION

Sec.

- 316.1 Definitions.
- 316.2 Eligibility.
- 316.3 Jurisdiction.
- 316.4 Application; documents.
- 316.5 Residence in the United States.
- 316.6–316.9 [Reserved].
- 316.10 Good moral character.
- 316.11 Attachment to the Constitution; favorable disposition toward the good order and happiness.
- 316.12 Applicant's legal incompetency during statutory period.
- 316.13 [Reserved].
- 316.14 Adjudication—examination, grant, denial.
- 316.15–316.19 [Reserved].
- 316.20 American institutions of research, public international organizations, and designations under the International Immunities Act.

Authority: 8 U.S.C. 1103, 1181, 1182, 1443, 1447, 8 CFR 2.1.

§ 316.1 Definitions.

As used in this part:

Application means the form specified in § 499.1 of this chapter on which an applicant requests consideration for naturalization.

Service district means the geographical area over which an office of the Immigration and Naturalization Service has jurisdiction, as defined in § 100.4 of this chapter.

§ 316.2 Eligibility.

(a) *General.* Except as otherwise provided in this chapter, to be eligible for naturalization, an alien must establish that he or she:

- (1) Is at least 18 years of age;
- (2) Has been lawfully admitted as a permanent resident of the United States;
- (3) Has resided continuously within the United States, as defined under § 316.5, for a period of at least five years after having been lawfully admitted;
- (4) Has been physically present in the United States for at least 30 months of the five years preceding the date of filing the application;

(5) Immediately preceding the filing of an application, or immediately preceding the examination on the application if the application was filed early pursuant to section 334(a) of the Act and the three month period falls within the required period of residence under section 316(a) or 319(a) of the Act, has resided, as defined under § 316.5, for at least three months in a State or Service district having jurisdiction over the applicant's actual place of residence, and in which the alien seeks to file the application;

(6) Has resided continuously within the United States from the date of application for naturalization up to the time of admission to citizenship;

(7) For all relevant time periods under this paragraph, has been and continues to be a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; and

(8) Is not a person described in Section 314 of the Act relating to deserters of the United States Armed Forces or those persons who departed from the United States to evade military service in the United States Armed Forces.

(b) *Burden of proof.* The applicant shall bear the burden of establishing that he or she meets all of the requirements for naturalization, including that the applicant was lawfully admitted as a permanent resident to the United States, in accordance with the immigration laws in effect at the time of the applicant's initial entry or any subsequent reentry.

§ 316.3 Jurisdiction.

Except as provided in § 316.5, the applicant shall file an application for naturalization with the Service office having jurisdiction, as described in § 100.4 of this chapter, over the applicant's residence at the time of filing the application. The applicant may be required to submit evidence of residence for at least three months immediately preceding the filing of the application in the State or Service district in which the applicant files the application. For purposes of this section, the applicant's residence in a State where there are two or more districts will be sufficient to comply with the jurisdictional requirement of residence in any one of those districts.

§ 316.4 Application; documents.

(a) The applicant shall apply for naturalization by filing:

(1) Form N-400 (Application for Naturalization);

(2) Evidence of lawful permanent residence in the United States in the form of photocopies (front and back) of Forms I-551, or I-151 (Alien Registration Receipt Card), or any other entry document;

(3) Form FD-258 (Fingerprint Card); and

(4) Three (3) photographs as described in § 333.1 of this chapter.

(b) At the time of the examination on the application for naturalization, the applicant may be required to establish the status of lawful permanent resident by submitting the original evidence, issued by the Service, of lawful permanent residence in the United States. The applicant may be also required to submit any passports, or any other documents that have been used to enter the United States at any time after the original admission for permanent residence.

§ 316.5 Residence in the United States.

(a) *General.* Unless otherwise specified, for purposes of this chapter, including § 316.2 (a)(3), (a)(5), and (a)(6), an alien's residence is the same as that alien's domicile, or principal actual dwelling place, without regard to the alien's intent, and the duration of an alien's residence in a particular location is measured from the moment the alien first establishes residence in that location.

(b) *Residences in specific cases—(1) Military personnel.* For applicants who are serving in the Armed Forces of the United States but who do not qualify for naturalization under part 328 of this chapter, the applicant's residence shall be:

(i) The State or Service District where the applicant is physically present for at least three months, immediately preceding the filing of an application for naturalization, or immediately preceding the examination on the application if the application was filed early pursuant to section 334(a) of the Act and the three month period falls within the required period of residence under section 316(a) or 319(a) of the Act;

(ii) The location of the residence of the applicant's spouse and/or minor child(ren); or

(iii) The applicant's home of record as declared to the Armed Forces at the time of enlistment and as currently reflected in the applicant's military personnel file.

(2) *Students.* An applicant who is attending an educational institution in a State or Service District other than the applicant's home residence may apply for naturalization:

(i) Where that institution is located; or
(ii) In the State of the applicant's home residence if the applicant can establish that he or she is financially dependent upon his or her parents at the time that the application is filed and during the naturalization process.

(3) *Commuter aliens.* An applicant who is a commuter alien, as described in § 211.5 of this chapter, must establish a principal dwelling place in the United States with the intention of permanently residing there, and must thereafter acquire the requisite period of residence before eligibility for naturalization may be established. Accordingly, a commuter resident alien may not apply for naturalization until he or she has actually taken up permanent residence in the United States and until such residence has continued for the required statutory period. Such an applicant bears the burden of providing evidence to that effect.

(4) *Residence in multiple states.* If an applicant claims residence in more than one State, the residence for purposes of this part shall be determined by reference to the location from which the annual federal income tax returns have been and are being filed.

(5) *Residence during absences of less than one year.* (i) An applicant's residence during any absence of less than one year shall continue to be the State or Service district where the applicant last resided at the time of the applicant's departure abroad.

(ii) *Return to the United States.* If, upon returning to the United States, an applicant returns to the State or Service district where the applicant last resided, the applicant will have complied with the continuous residence requirement specified in § 316.2(a)(5) when at least three months have elapsed, including any part of the applicant's absence, from the date on which the applicant first established that residence. If the applicant establishes residence in a State or Service district other than the one in which he or she last resided, the applicant must complete three months at that new residence to be eligible for naturalization.

(c) *Loss of Residence Status—(1) Absence from the United States.* (i) *For continuous periods of between six months and one year.* Absences from the United States for continuous periods of between six months and one year during the periods for which continuous residence is required under § 316.2 (a)(3) and (a)(6) shall break the continuity of such residence, and shall lead to the conclusion that the applicant has abandoned lawful permanent residence in the United States for naturalization purposes, unless the applicant can

establish otherwise to the satisfaction of the Service. This conclusion remains valid even if the applicant proves that he or she did not apply for or otherwise request a nonresident classification for tax purposes, that he or she did not document an abandonment of lawful permanent resident status, and that he or she is still considered a lawful permanent resident under immigration laws. The types of documentation which may establish that the applicant did not abandon his or her lawful permanent residence in the United States during an extended absence include, but are not limited to, evidence that during the absence:

(A) The applicant did not terminate his or her employment in the United States;

(B) The applicant's immediate family remained in the United States;

(C) The applicant retained full access to his or her United States abode; or

(D) The applicant did not obtain employment while abroad.

(ii) *For period in excess of one year.* Unless an applicant applies for benefits in accordance with paragraph (d) of this section, absences from the United States for a continuous period of one year or more during the period for which continuous residence is required under § 316.2 (a)(3) and (a)(5) shall break the continuity of the applicant's residence. An applicant described in this paragraph who must satisfy a five-year statutory residence period may file an application for naturalization four years and one day following the date of the applicant's return to the United States to resume permanent residence. An applicant described in this paragraph who must satisfy a three-year statutory residence period may file an application for naturalization two years and one day following the date of the applicant's return to the United States to resume permanent residence.

(2) *Claim of nonresident alien status for income tax purposes after lawful admission as a permanent resident.* An applicant who is a lawfully admitted permanent resident of the United States, but who voluntarily claims nonresident alien status to qualify for special exemptions from income tax liability, raises a rebuttable presumption that the applicant has relinquished the privileges of permanent resident status in the United States.

(3) *Deportation and return.* Any departure from the United States while under an order of deportation terminates the applicant's status as a lawful permanent resident and, therefore, breaks the continuity of residence for purposes of this part.

(4) *Readmission after a deferred inspection or exclusion proceeding.* An applicant who has been readmitted as a lawful permanent resident after a deferred inspection or by the immigration judge during exclusion proceedings shall satisfy the residence and physical presence requirements under § 316.2 (a)(3), (a)(4), (a)(5), and (a)(6) in the same manner as any other applicant for naturalization.

§§ 316.6-316.9 [Reserved]

§ 316.10 Good moral character.

(a) *Requirement of good moral character during the statutory period.*

(1) An applicant for naturalization bears the burden of demonstrating that, during the statutorily prescribed period, he or she has been and continues to be a person of good moral character. This includes the period between the examination and the administration of the oath of allegiance.

(2) In accordance with section 101(f) of the Act, the Service shall evaluate claims of good moral character on a case-by-case basis taking into account the elements enumerated in this section and the standards of the average citizen in the community of residence. The Service is not limited to reviewing the applicant's conduct during the five years immediately preceding the filing of the application, but may take into consideration, as a basis for its determination, the applicant's conduct and acts at any time prior to that period, if the conduct of the applicant during the statutory period does not reflect that there has been reform of character from an earlier period or if the earlier conduct and acts appear relevant to a determination of the applicant's present moral character.

(b) *Finding of a lack of good moral character.* (1) An applicant shall be found to lack good moral character, if the applicant has been:

(i) Convicted of murder; or
(ii) Convicted of an aggravated felony as defined in section 101(a)(43) of the Act.

(2) An applicant shall be found to lack good moral character if during the statutory period the applicant:

(i) Committed one or more crimes involving moral turpitude, other than a purely political offense, for which the applicant was convicted, except as specified in section 212(a)(2)(ii)(II) of the Act;

(ii) Committed two or more offenses for which the applicant was convicted and the aggregate sentence actually imposed was five years or more, provided that, if the offense was

committed outside the United States, it was not a purely political offense;

(iii) Violated any law of the United States, any State, or any foreign country relating to a controlled substance, provided that the violation was not a single offense for simple possession of 30 grams or less of marijuana;

(iv) Admits committing any criminal act covered by paragraphs (b)(2) (i), (ii), or (iii) of this section for which there was never a formal charge, indictment, arrest, or conviction, whether committed in the United States or any other country;

(v) Is or was confined to a penal institution for an aggregate of 180 days pursuant to a conviction or convictions (provided that such confinement was not outside the United States due to a conviction outside the United States for a purely political offense);

(vi) Has given false testimony to obtain any benefit from the Act, if the testimony was made under oath or affirmation and with an intent to obtain an immigration benefit; this prohibition applies regardless of whether the information provided in the false testimony was material, in the sense that if given truthfully it would have rendered ineligible for benefits either the applicant or the person on whose behalf the applicant sought the benefit;

(vii) Is or was involved in prostitution or commercialized vice as described in section 212(a)(2)(D) of the Act;

(viii) Is or was involved in the smuggling of a person or persons into the United States as described in section 212(a)(6)(E) of the Act;

(ix) Has practiced or is practicing polygamy;

(x) Committed two or more gambling offenses for which the applicant was convicted;

(xi) Earns his or her income principally from illegal gambling activities; or

(xii) Is or was a habitual drunkard.

(3) Unless the applicant establishes extenuating circumstances, the applicant shall be found to lack good moral character if, during the statutory period, the applicant:

(i) Willfully failed or refused to support dependents;

(ii) Had an extramarital affair which tended to destroy an existing marriage; or

(iii) Committed unlawful acts that adversely reflect upon the applicant's moral character, or was convicted or imprisoned for such acts, although the acts do not fall within the purview of § 316.10(b) (1) or (2).

(c) *Proof of good moral character in certain cases—*(1) *Effect of probation or parole.* An applicant who has been on

probation, parole, or suspended sentence during all or part of the statutory period is not thereby precluded from establishing good moral character, but such probation, parole, or suspended sentence may be considered by the Service in determining good moral character. An application will not be approved until after the probation, parole, or suspended sentence has been completed.

(2) *Full and unconditional executive pardon—*(i) *Before the statutory period.* An applicant who has received a full and unconditional executive pardon prior to the beginning of the statutory period is not precluded by § 316.10(b)(1) from establishing good moral character provided the applicant demonstrates that reformation and rehabilitation occurred prior to the beginning of the statutory period.

(ii) *During the statutory period.* An applicant who receives a full and unconditional executive pardon during the statutory period is not precluded by § 316.10(b)(2) (i) and (ii) from establishing good moral character, provided the applicant can demonstrate that extenuating and/or exonerating circumstances exist that would establish his or her good moral character.

(3) *Record expungement—*(i) *Drug offenses.* Where an applicant has had his or her record expunged relating to one of the narcotics offenses under section 212(a)(2)(A)(i)(II) and section 241(a)(2)(B) of the Act, that applicant shall be considered as having been "convicted" within the meaning of § 316.10(b)(2)(ii), or, if confined, as having been confined as a result of "conviction" for purposes of § 316.10(b)(2)(iv).

(ii) *Moral turpitude.* An applicant who has committed or admits the commission of two or more crimes involving moral turpitude during the statutory period is precluded from establishing good moral character, even though the conviction record of one such offense has been expunged.

§ 316.11 Attachment to the Constitution; favorable disposition towards the good order and happiness.

(a) *General.* An applicant for naturalization must establish that during the statutorily prescribed period, he or she has been and continues to be attached to the principles of the Constitution of the United States and favorably disposed toward the good order and happiness of the United States. Attachment implies a depth of conviction which would lead to active support of the Constitution. Attachment and favorable disposition relate to

mental attitude, and contemplate the exclusion from citizenship of applicants who are hostile to the basic form of government of the United States, or who disbelieve in the principles of the Constitution.

(b) *Advocacy of peaceful change.* At a minimum, the applicant shall satisfy the general standard of paragraph (a) of this section by demonstrating an acceptance of the democratic, representational process established by the Constitution, a willingness to obey the laws which may result from that process, and an understanding of the means for change which are prescribed by the Constitution. The right to work for political change shall be consistent with the standards in paragraph (a) of this section only if the changes advocated would not abrogate the current Government and establish an entirely different form of government.

(c) *Membership in the Communist Party or any other totalitarian organization.* An applicant who is or has been a member of or affiliated with the Communist Party or any other totalitarian organization shall be ineligible for naturalization, unless the applicant's membership meets the exceptions in sections 313 and 335 of the Act and § 313.4 of this chapter.

§ 316.12 Applicant's legal incompetency during statutory period.

(a) *General.* An applicant who is legally competent at the time of the examination on the naturalization application and of the administration of the oath of allegiance may be admitted to citizenship, provided that the applicant fully understands the purpose and responsibilities of the naturalization procedures.

(b) *Legal incompetence.* Naturalization is not precluded if, during part of the statutory period, the applicant was legally incompetent or confined to a mental institution.

(1) There is a presumption that the applicant's good moral character, attachment, and favorable disposition which existed prior to the period of legal incompetency continued through that period. The Service may, however, consider an applicant's actions during a period of legal incompetence, as evidence tending to rebut this presumption.

(2) If the applicant has been declared legally incompetent, the applicant has the burden of establishing that legal competency has been restored. The applicant shall submit legal and medical evidence to determine and establish the claim of legal competency.

(3) The applicant shall bear the burden of establishing that any crimes

committed, regardless of whether the applicant was convicted, occurred while the applicant was declared legally incompetent.

§ 316.13 [Reserved]

§ 316.14 Adjudication—examination, grant, denial.

(a) *Examination.* The examination on an application for naturalization shall be conducted in accordance with Section 335 of the Act.

(b) *Determination—(1) Grant or denial.* Subject to supervisory review, the employee of the Service who conducts the examination under paragraph (a) of this section shall determine whether to grant or deny the application, and shall provide reasons for the determination, as required under section 335(d) of the Act.

(2) *Appeal.* An applicant whose application for naturalization has been denied may request a hearing, which shall be carried out in accordance with section 336 of the Act.

§§ 316.15–316.19 [Reserved].

§ 316a.21 [Redesignated as § 316.5(d)].

10. Section 316a.21 is redesignated as paragraph (d) of § 316.5 and newly redesignated paragraph (d) is revised to read as follows:

§ 316.5 Residence in the United States.

* * * * *

(d) *Application for benefits with respect to absences; appeal—(1) Preservation of residence under section 316(b) of the Act.*

(i) An application for the residence benefits under section 316(b) of the Act to cover an absence from the United States for a continuous period of one year or more shall be submitted to the Service on Form N-470 with the required fee, in accordance with the form's instructions. The application may be filed either before or after the applicant's employment commences, but must be filed before the applicant has been absent from the United States for a continuous period of one year.

(ii) An approval of Form N-470 under section 316(b) of the Act shall cover the spouse and dependent unmarried sons and daughters of the applicant who are residing abroad as members of the applicant's household during the period covered by the application. The notice of approval, Form N-472, shall identify the family members so covered.

(iii) An applicant whose Form N-470 application under section 316(b) of the Act has been approved, but who voluntarily claims nonresident alien status to qualify for special exemptions from income tax liability, raises a

rebuttable presumption that the applicant has relinquished a claim of having retained lawful permanent resident status while abroad. The applicant's family members who were covered under section 316(b) of the Act and who were listed on the applicant's Form N-472 will also be subject to the rebuttable presumption that they have relinquished their claims to lawful permanent resident status.

(2) *Preservation of residence under section 317 of the Act.* An application for the residence and physical presence benefits of section 317 of the Act to cover any absences from the United States, whether before or after December 24, 1952, shall be submitted to the Service on Form N-470 with the required fee, in accordance with the form's instructions. The application may be filed either before or after the applicant's absence from the United States or the performance of the functions or services described in section 317 of the Act.

(3) *Approval, denial, and appeal.* The applicant under paragraphs (d)(1) or (d)(2) of this section shall be notified of the Service's disposition of the application on Form N-472. If the application is denied, the Service shall specify the reasons for the denial, and shall inform the applicant of the right to appeal in accordance with the provisions of part 103 of this chapter.

§§ 316a.2, 316a.3, and 316a.4 [Redesignated as § 316.20 (a), (b), and (c)].

11. The texts of §§ 316a.2, 316a.3, and 316a.4, are redesignated as paragraphs (a), (b), and (c) of new § 316.20, and new paragraph headings are added to read as follows:

§§ 316.20 American institutions of research, public international organizations, and designations under the International Immunities Act.

(a) *American institutions of research.* * * *

(b) *Public international organizations of which the United States is a member by treaty or statute.* * * *

(c) *International Organizations Immunities Act designations.* * * *

PART 316a—[REMOVED]

12. Part 316a is removed.

PART 319—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: SPOUSES OF UNITED STATES CITIZENS

13. The authority citation for part 319 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1430, 1443.

14. Section 319.1 is revised to read as follows:

§ 319.1 Persons living in marital union with United States citizen spouse.

(a) *Eligibility.* To be eligible for naturalization under section 319(a) of the Act, the spouse of a United States citizen must establish that he or she:

(1) Has been lawfully admitted for permanent residence to the United States;

(2) Has resided continuously within the United States, as defined under § 316.5 of this chapter, for a period of at least three years after having been lawfully admitted for permanent residence;

(3) Has been living in marital union with the citizen spouse for the three years preceding the date of examination on the application, and the spouse has been a United States citizen for the duration of that three year period;

(4) Has been physically present in the United States for periods totaling at least 18 months;

(5) Has resided, as defined in § 316.5 of this chapter, for at least 3 months immediately preceding the filing of the application, or immediately preceding the examination on the application if the application was filed early pursuant to section 334(a) of the Act and the three month period falls within the required period of residence under section 316(a) or 319(a) of the Act, in the State or Service district having jurisdiction over the alien's actual place of residence and in which the alien has filed the application;

(6) Has resided continuously within the United States from the date of application for naturalization until the time of admission to citizenship;

(7) For all relevant periods under this paragraph, has been and continues to be a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; and

(8) Has complied with all other requirements for naturalization as provided in part 316 of this chapter, except for those contained in § 316.2 (a)(3) through (a)(5) of this chapter.

(b) *Marital union*—(1) *General.* An applicant lives in marital union with a citizen spouse if the applicant actually resides with his or her current spouse. The burden is on the applicant to establish, in each individual case, that a particular marital union satisfies the requirements of this part.

(2) *Loss of Marital Union*—(i) *Divorce, death or expatriation.* A person is ineligible for naturalization as the

spouse of a United States citizen under Section 319(a) of the Act if, before or after the filing of the application, the marital union ceases to exist due to death or divorce, or the citizen spouse has expatriated. Eligibility is not restored to an applicant whose relationship to the citizen spouse terminates before the applicant's admission to citizenship, even though the applicant subsequently marries another United States citizen.

(ii) *Separation*—(A) *Legal separation.* Any legal separation will break the continuity of the marital union required for purposes of this part.

(B) *Informal separation.* Any informal separation that suggests the possibility of marital disunity will be evaluated on a case-by-case basis to determine whether it is sufficient enough to signify the dissolution of the marital union.

(C) *Involuntary separation.* In the event that the applicant and spouse live apart because of circumstances beyond their control, such as military service in the Armed Forces of the United States or essential business or occupational demands, rather than because of voluntary legal or informal separation, the resulting separation, even if prolonged, will not preclude naturalization under this part.

(c) *Physical presence in the United States.* In the event that the alien spouse has never been in the United States, eligibility under this section is not established even though the alien spouse resided abroad in marital union with the citizen spouse during the three year period.

15. Section 319.2 is revised to read as follows:

§ 319.2 Person whose United States citizen spouse is employed abroad.

(a) *Eligibility.* To be eligible for naturalization under section 319(b) of the Act, the alien spouse of a United States citizen must:

(1) Establish that his or her citizen spouse satisfies the requirements under section 319(b)(1) of the Act, including that he or she is regularly stationed abroad. For purposes of this section, a citizen spouse is regularly stationed abroad if he or she proceeds abroad, for a period of not less than one year, pursuant to an employment contract or orders, and assumes the duties of employment;

(2) At the time of examination on the application for naturalization, be present in the United States pursuant to a lawful admission for permanent residence;

(3) At the time of naturalization, be present in the United States;

(4) Declare in good faith, upon naturalization before the Service, an intention:

(i) To reside abroad with the citizen spouse; and

(ii) To take up residence within the United States immediately upon the termination of the citizen spouse's employment abroad;

(5) Be a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; and

(6) Comply with all other requirements for naturalization as provided in part 316 of this chapter, except for those contained in § 316.2(a)(3) through (a)(6) of this chapter.

(b) *Alien spouse's requirement to depart abroad immediately after naturalization.* An alien spouse seeking naturalization under section 319(b) of the Act must:

(1) Establish that he or she will depart to join the citizen spouse within 30 to 45 days after the date of naturalization;

(2) Notify the Service immediately of any delay or cancellation of the citizen spouse's assignment abroad; and

(3) Notify the Service immediately if he or she is unable to reside with the citizen spouse because the citizen spouse is employed abroad in an area of hostilities where dependents may not reside.

(c) *Loss of marital union due to death, divorce, or expatriation of the citizen spouse.* A person is ineligible for naturalization as the spouse of a United States citizen under section 319(b) of the Act if, before or after the filing of the application, the marital union ceases to exist due to death or divorce, or the citizen spouse has expatriated. Eligibility is not restored to an applicant whose relationship to the citizen spouse terminates before the applicant's admission into citizenship, even though the applicant subsequently marries another United States citizen.

16. Section 319.3 is revised to read as follows:

§ 319.3 Surviving spouses of United States citizens who died during a period of honorable service in an active duty status in the Armed Forces of the United States.

(a) *Eligibility.* To be eligible for naturalization under section 319(d) of the Act, the surviving spouse of a United States citizen must:

(1) Establish that his or her citizen spouse died during a period of honorable service in an active duty

status in the Armed Forces of the United States;

(2) Establish that he or she was living in marital union with the citizen spouse, in accordance with § 319.1(b), at the time of that spouse's death;

(3) At the time of examination on the application for naturalization, reside in the United States pursuant to a lawful admission for permanent residence;

(4) Be a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; and

(5) Comply with all other requirements for naturalization as provided in part 316 of this chapter, except for those contained in § 316.2(a)(3) through (a)(6) of this chapter.

(b) *Remarriage of the surviving spouse.* The surviving spouse of a United States citizen described under paragraph (a)(1) of this section remains eligible for naturalization under section 319(d) of the Act, even if the surviving spouse remarries.

§§ 319.4 and 319.5 [Redesignated as § 319.5 and 319.6]

17. Sections 319.4 and 319.5 are redesignated as §§ 319.5 and 319.6 respectively.

§ 319.5 [Amended]

18. Newly redesignated § 319.5 is amended by revising, in the second sentence, the reference to "§ 316a.4" to read "§ 316.20(b)".

19. A new section 319.4 is added to read as follows:

§ 319.4 Persons continuously employed for 5 years by United States organizations engaged in disseminating information.

To be eligible for naturalization under section 319(c) of the Act, an applicant must:

(a) Establish that he or she is employed as required under section 319(c)(1) of the Act;

(b) Reside in the United States pursuant to a lawful admission for permanent residence;

(c) Establish that he or she has been employed as required under paragraph (a) of this section continuously for a period of not less than five years after a lawful admission for permanent residence;

(d) File his or her application for naturalization while employed as required under paragraph (a) of this section, or within six months following the termination of such employment;

(e) Be present in the United States at the time of naturalization;

(f) Declare in good faith, upon naturalization before the Service, an intention to take up residence within the United States immediately upon his or her termination of employment;

(g) Be a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; and

(h) Comply with all other requirements for naturalization as provided in part 316 of this chapter, except for those contained in § 316.2(a)(3) through (a)(6) of this chapter.

§§ 319.7-319.10 [Reserved]

20. Sections 319.7 through 319.10 are reserved.

21. Section 319.11 is revised to read as follows:

§ 319.11 Filing of application.

(a) *General.* An applicant covered by this part shall submit to the Service an application for naturalization on Form N-400, with the required fee, in accordance with the instructions contained therein. An alien spouse applying for naturalization under section 319(b) of the Act and § 319.2 shall also submit a statement of intent containing the following information about the citizen spouse's employment and the applicant's intent following naturalization:

(1) The name of the employer and:

(i) The nature of the employer's business; or

(ii) The ministerial, religious, or missionary activity in which the employer is engaged;

(2) Whether the employing entity is owned in whole or in part by United States interests;

(3) Whether the employing entity is engaged in whole or in part in the development of the foreign trade and commerce of the United States;

(4) The nature of the activity in which the citizen spouse is engaged;

(5) The anticipated period of employment abroad;

(6) Whether the alien spouse intends to reside abroad with the citizen spouse; and,

(7) Whether the alien spouse intends to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse.

(b) *Applications by military spouses—(1) General.* The alien spouses of United States military personnel being assigned abroad must satisfy the basic requirements of section 319(b) of

the Act and of paragraph (a) of this section.

(2) *Government expense.* In the event that transportation expenses abroad for the alien spouse are to be paid by military authorities, a properly executed Certificate of Overseas Assignment to Support Application to File Petition for Naturalization, DD Form 1278 will be submitted in lieu of the statement of intent required by paragraph (a) of this section. Any DD Form 1278 issued more than 90 days in advance of departure is unacceptable for purposes of this section.

(3) *Private expense.* In the event that the alien spouse is not authorized to travel abroad at military expense, the alien spouse must submit in lieu of the statement of intent required by paragraph (a) of this section:

(i) A copy of the citizen spouse's military travel orders,

(ii) A letter from the citizen spouse's commanding officer indicating that the military has no objection to the applicant traveling to and residing in the vicinity of the citizen spouse's new duty station; and

(iii) Evidence of transportation arrangements to the new duty station.

22. Part 322 is revised to read as follows:

PART 322—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: CHILDREN OF CITIZEN PARENT

Sec.

322.1 [Reserved]

322.2 Eligibility.

322.3 Jurisdiction for filing application.

322.4 Application and examination on the application.

322.5 Oath of Allegiance.

Authority: 8 U.S.C. 1103, 1433, 1443, 1448.

§ 322.1 [Reserved]

§ 322.2 Eligibility.

(a) *General.* To be eligible for naturalization under section 322 of the Act, a child on whose behalf an application for naturalization has been filed by a parent who is, at the time of filing, a citizen of the United States, must:

(1) Be unmarried and under 18 years of age, both at the time of application and at the time of admission to citizenship;

(2) Reside permanently in the United States, in the physical and legal custody of the applying citizen parent, pursuant to a lawful admission for permanent residence;

(3) Be a person of good moral character, attached to the principles of

the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; a child under the age of fourteen will generally be presumed to satisfy this requirement;

(4) Comply with all other requirements for naturalization as provided in the Act and in part 316 of this chapter, including the disqualifications contained in sections 313, 314, 315, and 318 of the Act, except:

(i) The child is not required to satisfy the residence requirements under § 316.2(a)(3), (a)(4), or (a)(6) of this chapter; and,

(ii) The child is exempt from the literacy and knowledge requirements under section 312 of the Act.

(b) *Definition of Child.* For purposes of this part,

(1) *The definition of child includes:*

(i) A legitimate child;

(ii) A child who is legitimated before the child reaches age 16 under the laws of the child's residence or domicile, or under the laws of the father's residence or domicile, whether inside or outside of the United States, if such legitimation takes place while the child is in the legal custody of the legitimating parent or parents at the time of such legitimation;

(iii) An illegitimate child if the application is being submitted by the child's natural mother; or

(iv) A child who is adopted before the child reaches age 16 if such adoption takes place while the child is in the legal custody of the adopting parent or parents at the time of such adoption.

(2) *The definition of child does not include:*

(i) A stepchild; or

(ii) An illegitimate child, except as provided in paragraph (b)(1)(iii) of this section, even if the child is recognized but not legitimated by the father.

(c) *Adopted children of a parent who meets the criteria of section 319(b)(1) of the Act.* An adopted child who is in the United States at the time of naturalization is also exempt from the residence requirements of § 316.2(a)(5) of this chapter if the child's adoptive citizen parent:

(1) Meets the criteria of section 319(b)(1) of the Act;

(2) Applies for naturalization of the child under section 322(c) of the Act; and

(3) Declares before the Service an intention in good faith to take up residence within the United States immediately upon termination of employment described in section 319(b)(1)(B) of the Act.

§ 322.3 Jurisdiction for filing application.

(a) The application for naturalization under section 322(a) of the Act must be filed with the office of the Service having jurisdiction over the place of residence of the child and the child's citizen parent.

(b) An application for naturalization under section 322(c) of the Act and § 322.2(c) may be filed in any office of the Service without regard to residence.

§ 322.4 Application and examination on the application.

(a) An application for naturalization under this section in behalf of a child shall be submitted on Form N-400 by the citizen parent. If the child is over the age of fourteen, Form FD-258, fingerprint card, must accompany the application.

(b) The application must be accompanied by proof of:

(1) The child's admission for lawful permanent residence;

(2) The applying citizen parent's United States citizenship; and

(3) The relationship between the child and applying citizen parent.

(c) In the case of an applicant under section 322(c) of the Act, the citizen parent shall also submit a statement of intent containing the following information about the citizen parent's employment and the child's intentions following naturalization:

(1) The name of the employer and either the nature of the employer's business, or the ministerial, religious, or missionary activity in which the employer is engaged;

(2) Whether the employing entity is owned in whole or in part by United States interests;

(3) Whether the employing entity is engaged in whole or in part in the development of the foreign trade and commerce of the United States;

(4) The nature of the activity in which the citizen parent is engaged;

(5) The anticipated period of employment abroad;

(6) The child's intention to reside abroad with the citizen parent; and

(7) Whether the citizen parent intends to take up residence within the United States immediately upon the termination of such employment abroad of the citizen parent.

(d) In the case of a citizen parent whose employment abroad is in connection with his or her membership in the Armed Forces of the United States, a properly executed DD Form 1278 will satisfy the requirements of paragraph (c) of this section.

(e) The child and the citizen parent must both appear at the examination on the application.

§ 322.5 Oath of Allegiance.

(a) A child, as defined in § 322.2(b), must take the oath of allegiance in compliance with part 337 of this chapter, if the child is capable of understanding the meaning of the oath.

(b) If the child is not exempt from the requirement to take the oath of allegiance, the citizen parent must be present at the oath taking ceremony, unless such parent has been excused for good cause.

PART 324—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: WOMEN WHO HAVE LOST UNITED STATES CITIZENSHIP BY MARRIAGE AND FORMER CITIZENS WHOSE NATURALIZATION IS AUTHORIZED BY PRIVATE LAW

23. The title of part 324 is revised as set forth above.

24. The authority citation for part 324 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1435, 1443, 1446, 1101 note.

25. A new section 324.1 is added to read as follows:

§ 324.1 Definitions.

As used in this part:

Oath means the Oath of Allegiance as prescribed in section 337 of the Act.

§§ 324.11, 324.12, 324.13, and 324.14 [Redesignated as §§ 321.2, 324.3, 324.4 and 324.5]

26. Sections 324.11, 324.12, 324.13, and 324.14 are redesignated as §§ 324.2, 324.3, 324.4, and 324.5, respectively.

27. Newly redesignated §§ 324.2 and 324.3 are revised to read as follows:

§ 324.2 Former citizen at birth or by naturalization.

(a) *Eligibility.* To be eligible for naturalization under section 324(a) of the Act, an applicant must establish that she:

(1) Was formerly a United States citizen;

(2) Lost or may have lost United States citizenship:

(i) Prior to September 22, 1922, by marriage to an alien, or by the loss of United States citizenship of the applicant's spouse; or

(ii) On or after September 22, 1922, by marriage before March 3, 1931 to an alien ineligible to citizenship;

(3) Did not acquire any other nationality by affirmative act other than by marriage;

(4) Either:

(i) Has resided in the United States continuously since the date of the marriage referred to in paragraph (a)(2) of this section; or

(iii) Has been lawfully admitted for permanent residence prior to filing an application for naturalization;

(5) Has been and is a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States, for the period of not less than five years immediately preceding the examination on the application for naturalization up to the time of admission to citizenship; and

(6) Complies with all other requirements for naturalization as provided in part 316 of this chapter, except that:

(i) The applicant is not required to satisfy the residence requirements under § 316.2(a)(3) through (a)(6) of this chapter; and,

(ii) The applicant need not set forth an intention to reside permanently within the United States.

(b) *Application.* An applicant for naturalization under this section must submit an application on Form N-400, as required by § 316.4 of this chapter. The application must be accompanied by a statement describing the applicant's eligibility as provided in paragraph (a) of this section as well as any available documentation to establish those facts. An application under this section shall be filed with the Service office having jurisdiction over the place of residence of the applicant.

§ 324.3 Women, citizens of the United States at birth, who lost or are believed to have lost citizenship by marriage and whose marriage has terminated.

(a) *Eligibility.* To be eligible for naturalization under section 324(c) of the Act, an applicant must establish:

(1) That she was formerly a United States citizen by birth;

(2) That she lost or may have lost her United States citizenship:

(i) Prior to September 22, 1922, by marriage to an alien; or

(ii) On or after September 22, 1922, by marriage to an alien ineligible to citizenship before March 3, 1931;

(3) That the marriage specified in paragraph (a)(2) of this section terminated subsequent to January 12, 1941;

(4) That she did not acquire any other nationality by affirmative act other than by marriage; and

(5) That she is not proscribed from naturalization under section 313 of the Act.

(b) *Procedures*—(1) *Application.* An applicant eligible for naturalization pursuant to paragraph (a) of this section, who desires to regain citizenship pursuant to section 324(c) of the Act,

shall submit, without fee, an Application for Naturalization, form N-400, to the office of the Service having jurisdiction over her place of residence as evidence of her desire to take the oath.

(2) *Oath of Allegiance.* The district director shall review the applicant's submission, and shall inform the applicant of her eligibility under section 324(c) of the Act to take the oath in conformity with part 337 of this chapter. After the applicant has taken the oath, the applicant will be furnished with a copy of the oath by the clerk of the Court or the Service, as appropriate, properly certified, for which a fee not exceeding \$5 may be charged. The oath may also be taken abroad before any diplomatic or consular officer of the United States, in accordance with such regulations as may be prescribed by the Secretary of State.

§ 324.4 [Amended]

28. Newly redesignated § 324.4 is amended by:

a. Removing, in the first sentence, the phrase, "of allegiance prescribed by part 337";

b. Revising, at the end of the first sentence, the phrase "on or after December 24, 1952" to read "or office of the Service within the United States";

c. Revising, in the second sentence, the reference to "§ 324.12" to read "§ 324.4(b) and (c)";

d. Revising, in the second sentence, the phrase "demands the triplicate copy of the Form N-408" to read "requests a copy of the oath".

§ 324.5 [Amended]

29. Newly redesignated § 324.5 is amended by:

a. Removing, in the first sentence, the phrase "prescribed in section 337 of the Immigration and Nationality Act";

b. Adding, in the first sentence, the phrase "or office of the Service within the United States" immediately following the phrase "before any naturalization court";

c. Revising, at the end of the first sentence, the phrase, "a preliminary application on Form N-401" to read "an application on Form N-400, without fee";

d. Revising, in the second sentence, the reference to Form "N-408" to read "N-400";

e. Removing, in the second sentence, the phrase "§ 332a.13 of";

f. Revising, in the last sentence, the reference to "§ 324.12" to read "§ 324.5(c)"; and

g. Revising, in the last sentence, the phrase, "the disposition of Form N-408 apply equally" to read "copies of the oath will apply".

§ 324.15 [Removed]

30. Section 324.15 is removed.

31. A new part 325 is added to read as follows:

PART 325—NATIONALS BUT NOT CITIZENS OF THE UNITED STATES; RESIDENCE WITHIN OUTLYING POSSESSIONS

Sec.

325.1 [Reserved].

325.2 Eligibility.

325.3 Residence.

325.4 Application; documents.

Authority: 8 U.S.C. 1103, 1436, 1443.

§ 325.1 [Reserved]

§ 325.2 Eligibility.

An applicant for naturalization under section 325 of the Act who owes permanent allegiance to the United States, and who is otherwise qualified may be naturalized if:

(a) The applicant becomes a resident of any State; and

(b) The applicant complies with all of the applicable requirements in parts 316 or 319 of this chapter, as appropriate, except as modified in this part

§ 325.3 Residence.

(a) For purposes of applying the residence and physical presence requirements in parts 316 and 319 of this chapter, except as they relate to the required three months' residence in a State or Service district, residence and physical presence in an outlying possession of the United States will count as residence and physical presence in the United States.

(b) An applicant who intends to resume residence in an outlying possession after naturalization will be regarded as having established that he or she intends to reside permanently in the United States.

§ 325.4 Application; Documents.

(a) An application for naturalization under this part shall be submitted in compliance with § 316.4(a) of this chapter.

(b) The applicant shall submit with the application:

(1) A birth certificate or other evidence of national status;

(2) Proof of identity; and

(3) Evidence of actual residence in the State or Service district in the United States where the application is filed for three months immediately preceding the filing of the application, or immediately preceding the examination on the application if the application was filed early pursuant to section 334(a) of the Act and the three month period falls

within the required period of residence under section 316(a) or 319(a) of the Act.

32. Part 327 is revised to read as follows:

PART 327—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WHO LOST UNITED STATES CITIZENSHIP THROUGH SERVICE IN ARMED FORCES OF FOREIGN COUNTRY DURING WORLD WAR II

Sec.

327.1 Eligibility.

327.2 Procedure for naturalization.

Authority: 8 U.S.C. 1103, 1438, 1443.

§ 327.1 Eligibility.

To be eligible for naturalization under section 327 of the Act, an applicant must establish that:

(a) The applicant, on or after September 1, 1939 and on or before September 2, 1945:

(1) Served in the military, air or naval forces of any country at war with a country with which the United States was at war after December 7, 1941 and before September 2, 1945; or

(2) Took an oath of allegiance or obligation for purposes of entering or serving in the military, air, or, naval forces of any country at war with a country with which the United States was at war after December 7, 1941 and before September 2, 1945;

(b) The applicant was a United States citizen at the time of the service or oath specified in paragraph (a) of this section;

(c) The applicant lost United States citizenship as a result of the service or oath specified in paragraph (a) of this section;

(d) The applicant has been lawfully admitted for permanent residence and intends to reside permanently in the United States;

(e) The applicant is, and has been for a period of at least five years immediately preceding taking the oath required in § 327.2(c), a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; and

(f) The applicant has complied with all other requirements for naturalization as provided in part 316 of this chapter, except for those contained in § 316.2 (a)(3) through (a)(6) of this chapter.

§ 327.2 Procedure for naturalization.

(a) *Application.* An applicant who is eligible for naturalization pursuant to section 327 of the Act and § 327.1 shall submit an Application for Naturalization, Form N-400, in accordance with § 316.4 of this chapter,

to the Service office having jurisdiction over the applicant's place of residence. Such application must be accompanied by a statement describing the applicant's eligibility under § 327.1 (a), (b), and (c) and any available documentation to establish those facts.

(b) *Oath of Allegiance.* Upon naturalization of the applicant, the district director shall transmit a copy of the oath of allegiance taken by the applicant to the Department of State.

33. Part 328 is revised to read as follows:

PART 328—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH THREE YEARS SERVICE IN ARMED FORCES OF THE UNITED STATES

Sec.

328.1 Definitions.

328.2 Eligibility.

328.3 Jurisdiction.

328.4 Application.

Authority: 8 U.S.C. 1103, 1439, 1443.

§ 328.1 Definitions.

As used in this part:

Honorable service means only that military service which is designated as honorable service by the executive department under which the applicant performed that military service. Any service that is designated to be other than honorable will not qualify under this section.

Service in the Armed Forces of the United States means:

(1) Active or reserve service in the United States Army, United States Navy, United States Marines, United States Air Force, or United States Coast Guard; or

(2) Service in a National Guard unit during such time as the unit is Federally recognized as a reserve component of the Armed Forces of the United States.

§ 328.2 Eligibility.

To be eligible for naturalization under section 328(a) of the Act, an applicant must establish that the applicant:

(a) Has served honorably in and, if separated, has been separated honorably from, the Armed Forces of the United States;

(b) Has served under paragraph (a) of this section for a period of three or more years, whether that service is continuous or discontinuous;

(c) Is a lawful permanent resident of the United States at the time of the examination on the application;

(d) Has been, during any period within five years preceding the filing of the application for naturalization, or the examination on the application if eligible for early filing under section

334(a) of the Act, and continues to be, of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States.

(1) An applicant is presumed to satisfy the requirements of this paragraph during periods of honorable service under paragraph (a) of this section.

(2) An applicant must establish that he or she satisfies the requirements of this paragraph from the date of discharge from military until the date of admission to citizenship.

(3) An applicant whose honorable service is discontinuous must also demonstrate that he or she satisfies the requirements of this paragraph for those periods of time when that applicant is not in honorable service.

(e) Has complied with all other requirements for naturalization as provided in part 316 of this chapter, except that:

(1) An applicant who files an application for naturalization while still in honorable service, or within six months after termination of such service, is generally not required to satisfy the residence requirements under § 316.2(a)(3) through (a)(6) of this chapter; however, if the applicant's military service is discontinuous, that applicant must establish, for periods between honorable service during the five years immediately preceding the date of filing the application, or the examination on the application if eligible for early filing under section 334(a) of the Act, that he or she resided in the United States and in the State or Service district in the United States in which the application is filed.

(2) An applicant who files an application for naturalization more than six months after terminating honorable service must satisfy the residence requirements under § 316.2(a)(3) through (a)(6) of this chapter. However, any honorable service by the applicant within the five years immediately preceding the date of filing of the application shall be considered as residence within the United States for purposes of § 316.2(a)(3) of this chapter.

§ 328.3 Jurisdiction.

An application filed within 6 months after discharge may be filed with any office of the Service within the United States regardless of place of residence of the applicant. An application filed more than 6 months after discharge shall be filed with the Service office having jurisdiction over the State or Service district where the applicant has been residing for at least three months

immediately preceding the filing of the application, or immediately preceding the examination on the application if the application was filed early pursuant to section 334(a) of the Act and the three month period falls within the required period of residence under section 316(a) or 319(a) of the Act.

§ 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.

PART 329—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: NATURALIZATION BASED UPON ACTIVE DUTY SERVICE IN THE UNITED STATES ARMED FORCES DURING SPECIFIED PERIODS OF HOSTILITIES

34. The authority citation for part 329 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1440, 1443.

35. Sections 329.1 and 329.2 are revised, and new §§ 329.3 through 329.4 are added to read as follows:

§ 329.1 Definitions.

As used in this part:

Honorable service and separation means service and separation from service which the executive department under which the applicant served determines to be honorable, including:

(1) That such applicant had not been separated from service on account of alienage;

(2) That such applicant was not a conscientious objector who performed no military, air or naval duty; and

(3) That such applicant did not refuse to wear a military uniform.

Service in an active duty status in the Armed Forces of the United States means active service in the following organizations:

(1) United States Army, United States Navy, United States Marines, United States Air Force, United States Coast Guard; or

(2) A National Guard unit during such time as the unit is Federally recognized as a reserve component of the Armed Forces of the United States and that unit is called for active duty.

World War I means the period beginning on April 6, 1917, and ending on November 11, 1918.

§ 329.2 Eligibility.

To be eligible for naturalization under section 329(a) of the Act, an applicant must establish that he or she:

(a) Has served honorably in an active duty status in the Armed Forces of the United States during:

(1) World War I;

(2) The period beginning on September 1, 1939 and ending on December 31, 1946;

(3) The period beginning on June 25, 1950 and ending on July 1, 1955;

(4) The period beginning on February 28, 1961 and ending on October 15, 1978;

(5) The period beginning on October 25, 1983 and ending on November 2, 1983, for active service conducted:

(i) On the Islands of Grenada, Carriacou, Green Hog, and those islands adjacent to Grenada in the Atlantic seaboard where such service was in direct support of the military operations in Grenada; or

(ii) In the air space above Grenada; or

(iii) In the seas adjacent to Grenada where military operations were conducted; or

(iv) At the Grantly Adams International Airport in Barbados; or

(6) Any other period as may be designated by the President in an Executive Order pursuant to section 329(a) of the Act;

(b) If separated, has been separated honorably from service in the Armed Forces of the United States under paragraph (a) of this section;

(c) Satisfies the permanent residence requirement in one of the following ways:

(1) Any time after enlistment or induction into the Armed Forces of the United States, the applicant was lawfully admitted to the United States as a permanent resident; or

(2) At the time of enlistment or induction, the applicant was physically present in the geographical territory of the United States, the Canal Zone, American Samoa, Midway Island (prior to August 21, 1959), or Swain's Island, or in the ports, harbors, bays, enclosed sea areas, or the three-mile territorial sea along the coasts of these land areas, whether or not the applicant has been lawfully admitted to the United States as a permanent resident;

(d) Has been, for at least one year prior to filing the application for naturalization, and continues to be, of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; and

(e) Has complied with all other requirements for naturalization as

provided in part 316 of this chapter, except that:

(1) The applicant may be of any age;

(2) The applicant is not required to satisfy the residence requirements under § 316.2 (a)(3) through (a)(6) of this chapter; and

(3) The applicant may be naturalized even if an outstanding order to show cause exists under part 242 of this chapter.

§ 329.3 Jurisdiction.

Except as noted in § 329.5, an application under this part may be filed in any office of the Service within the United States regardless of the place of residence of the applicant.

§ 329.4 Application and evidence.

(a) *Application.* An applicant for naturalization under section 329 of the Act 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, in triplicate, and Form G-325B, Biographic Form.

(b) *Evidence.* The applicant's eligibility for naturalization under § 329.2 (a), (c)(1), or (c)(2) shall be established only by the certification of the executive department under which the applicant served or is serving.

36. Part 330 is revised to read as follows:

PART 330—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: SEAMEN

Sec.

330.1 Eligibility.

330.2 Application.

Authority: 8 U.S.C. 1103, 1443.

§ 330.1 Eligibility.

To be eligible for naturalization under section 330 of the Act, an applicant must establish that he or she:

(a) Has been lawfully admitted as a permanent resident of the United States;

(b) Has served honorably or with good conduct, during such periods of lawful residence, in a capacity other than as a member of the Armed Forces of the United States, on board:

(1) A vessel operated by the United States, or an agency thereof, the full legal and equitable title to which is in the United States; or

(2) A vessel, whose home port is the United States, and

(i) Which is registered under the laws of the United States; or

(ii) The full legal and equitable title to which is in a citizen of the United States, or a corporation organized under

the laws of any of the several States of the United States;

(c) Served in the capacity specified in paragraph (b) of this section within five years immediately preceding the date on which the applicant filed the application for naturalization, or on which the alien is examined, if the application was filed early pursuant to section 334(a) of the Act.

(d) Has been, during the five years preceding the filing of the application for naturalization, or the examination on the application if the application was filed early under section 334(a) of the Act, and continues to be, of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States.

(1) An applicant is presumed to satisfy the requirements of this paragraph during periods of service in accordance with paragraphs (b) and (c) of this section, as reflected by the records and certificates submitted by the applicant under § 330.2(b).

(2) An applicant must demonstrate that he or she satisfies the requirements of this paragraph for those required periods when that applicant did not perform service in accordance with paragraphs (b) and (c) of this section; and

(e) Has complied with all other requirements for naturalization as provided in part 316 of this chapter, except that, for purposes of the residence requirements under paragraphs § 316.2 (a)(3) and (a)(4) of this chapter, service satisfying the conditions of this section shall be considered as residence and physical presence within the United States.

§ 330.2 Application.

(a) An applicant for naturalization under section 330 of the Act must submit an Application for Naturalization, Form N-400, to the Service office exercising jurisdiction over the applicant's actual residence in the United States. For the purpose of this section, the term "actual residence" means the applicant's residence and abode ashore as may have been established during the period of qualifying service as a seaman immediately prior to the filing of the application.

(b) An applicant under this part must submit authenticated copies of the records and certificates of either:

(1) The Executive Department or Agencies having custody of records reflecting the applicant's service on a vessel in United States Government Service, if the applicant provided service under § 330.1(b)(1); or

(2) The masters of those vessels maintaining a home port in the United States, and either registered under the laws of the United States or owned by United States citizens or corporations, if the applicant provided service under § 330.1(b)(2).

37. Part 331 is added to read as follows:

PART 331—ALIEN ENEMIES; NATURALIZATION UNDER SPECIFIED CONDITIONS AND PROCEDURES

Sec.

331.1 Definitions.

331.2 Eligibility.

331.3 Investigation.

331.4 Procedures.

Authority: 8 U.S.C. 1103, 1443.

§ 331.1 Definitions.

As used in this part:

Alien enemy means any person who is a native, citizen, subject or denizen of any country, state or sovereignty with which the United States is at war, for as long as the United States remains at war, as determined by proclamation of the President or resolution of Congress.

Denizen includes, but is not limited to, any person who has been admitted to residence and is entitled to certain rights in a country other than the one of the person's nationality. A person holding a status in another country equivalent to that of a lawful permanent resident in the United States would be considered to be a denizen.

§ 331.2 Eligibility.

An alien enemy may be naturalized as a citizen of the United States under section 331 of the Act if:

(a) The alien's application for naturalization is pending at the beginning of the state of war, or the Service has granted the alien an exception from the classification as an alien enemy after conducting an investigation in accordance with § 331.3;

(b) The alien's loyalty to the United States is fully established upon investigation by the Service in accordance with § 331.3; and

(c) The alien is otherwise entitled to admission to citizenship.

§ 331.3 Investigation.

The Service shall conduct a full investigation of any alien enemy whose application for naturalization is pending upon declaration of war or at any time thereafter. This investigation may take place either prior to or after the examination on the application. This investigation shall encompass, but not be limited to, the applicant's loyalty to the United States and attachment to the

country, state, or sovereignty with which the United States is at war.

§ 331.4 Procedures.

(a) Upon determining that an applicant for naturalization is an alien enemy, the Service shall notify the applicant in writing of its determination. Upon service of this notice to the applicant, the provisions of section 336(b) of the Act will no longer apply to such applicant, until that applicant is no longer classifiable as an alien enemy.

(b) Upon completion of the investigation described in § 331.3, if the Service concludes that the applicant's loyalty and attachment to the United States have been fully established, the application may be granted.

PART 332—NATURALIZATION ADMINISTRATION

38. The heading for part 332 is revised as set forth above.

39. The authority citation for part 332 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1443, 1447.

§§ 332.11 and 332.13 [Redesignated as §§ 335.2 and 335.3].

40. Sections 332.11 and 332.13 are redesignated as §§ 335.2 and 335.3, respectively.

§ 332d.1 [Redesignated as § 332.1].

41. Section 332d.1 is redesignated as § 332.1, and is revised to read as follows:

§ 332.1 Designation of service employees to administer oaths and conduct examinations and hearings.

(a) *Examinations.* All immigration examiners are hereby designated to conduct the examination for naturalization required under section 335 of the Act. A district director may also designate other officers of the Service, who are classified at grade levels equal to or higher than the grade of the immigration examiners, to conduct the examination under section 335 of the Act, provided that each officer so designated has received appropriate training.

(b) *Hearings.* Section 336 of the Act authorizes immigration officers to conduct hearings under that section. A district director may designate the officers who are designated under paragraph (a) of this section to conduct hearings under section 336 of the Act.

(c) *Depositions.* All immigration officers and other officers or employees of the Service who are classified at grade levels equal to or higher than the grade of the immigration officers are hereby designated to take depositions in

matters relating to the administration of naturalization and citizenship laws.

(d) *Oaths and affirmations.* All immigration officers and other officers or employees of the Service who are classified at grade levels equal to or higher than the grade of the immigration officers are hereby designated to administer oaths or affirmations except for the oath of allegiance as provided in § 337.2 of this chapter.

§ 332c.1 [Redesignated as § 332.2].

42. Section 332c.1 is redesignated as § 332.2 and is amended, by revising in the third sentence the word "INS" to read "Service".

§§ 332b.1, 332b.3, and 332b.4 [Removed].

43. Sections 332b.1, 332b.3, and 332b.4 are removed.

44. A new § 332.3 is added to read as follows:

§ 332.3 Instruction and training in citizenship responsibilities.

(a) Headquarters and the field offices of the Service shall cooperate with appropriate authorities or organizations in the community to establish and maintain classes within, or under the supervision of, the public schools, for the purpose of preparing applicants for naturalization to accept the duties and responsibilities of citizenship. Service officers shall, whenever practical, visit such classes or otherwise provide necessary liaison with those authorities or organizations that are providing such educational preparation.

(b) Citizenship textbooks and other study materials are intended for the free use of applicants for naturalization who are enrolled in instructional courses in or under the supervision of the public schools as provided in paragraph (a) of this section. Such textbooks and other study materials shall be distributed by the regional offices of the Service to the appropriate representatives of the public schools upon their written and signed requests.

(c) Public school certificates attesting to the attendance and progress of enrollees shall be given favorable consideration by Service officers in determining the applicant's overall knowledge and understanding of the fundamentals of the history, principles, and form of government of the United States, and the applicant's ability to read, write, and speak the English language.

§ 332b.5 [Redesignated as § 332.4].

45. Section 332b.5 is redesignated as § 332.4.

§ 332a.1, 332.11 and 332.12 [Redesignated § 332.5 (a), (c), and (d)].

46. A new § 332.5 is added. The text of §§ 332a.1, 332a.11 and 332a.12 are redesignated as new paragraphs (a), (c), and (d) of new § 332.5, and paragraph headings are added to read as follows:

§ 332.5 Official forms for use by clerks of court.

(a) Official forms essential to exercise of jurisdiction. * * *

(c) Initial application for official forms. * * *

(d) Subsequent application for use of official forms. * * *

§ 332a.3 [Redesignated § 332.5(b)]

47. Section 332a.2 is redesignated as § 332.5(b), and is revised to read as follows:

* * * * *

(b) *Official forms prescribed for use of clerks of naturalization courts.* Clerks of courts shall use only the forms listed in § 499.1 of this chapter in the exercise of naturalization jurisdiction.

* * * * *

Parts 332a, 332b, 332c, and 332d [Removed].

48. Parts 332a, 332b, 332c, and 332d are removed.

49. Part 333 is revised to read as follows:

PART 333—PHOTOGRAPHS

Sec.

333.1 Description of required photographs.

333.2 Attachment of photographs to documents.

Authority: 8 U.S.C. 1103, 1443.

§ 333.1 Description of required photographs.

(a) Every applicant required to furnish photographs of himself or herself under section 333 of the Act and this chapter shall submit three identical color photographs that shall have a glossy finish and shall be no smaller than 40 mm in length by 35 mm in width, and no larger than 80 mm in length by 60 mm in width; shall be unmounted and printed on a thin paper; shall have a white background; shall clearly show a three-quarter profile view of the features of the applicant with head bare (unless the applicant is wearing a headdress as required by a religious order of which he or she is a member), with the distance from the top of the head to point of chin approximately 30 mm; and shall have been taken within 30 days of the date they are furnished. The image must be at least 26 mm in width. Photographs must be in natural color.

(b) The applicant, except in the case of a child or other person physically

incapable of signing his or her name, shall sign each copy of the photograph on the front of the photograph with his or her full true name, in such manner as not to obscure the features. An applicant unable to write may make the signature by a mark. An applicant for naturalization must sign the photographs in the English language, unless the applicant is exempt from the English language requirement of part 312 of this chapter and is unable to sign in English, in which case the photographs may be signed in any language.

(c) (1) If a child is unable to sign his or her name, the photographs must be signed by a parent or guardian, the signature reading "(name of child) by (name of parent or guardian)."

(2) If an adult is physically unable to sign or make a mark, a guardian or the Service employee conducting the interview will sign the photographs as provided in paragraph (c)(1) of this section.

(d) The photographs must be signed when submitted with an application if the instructions accompanying the application so require. If signature is not required by the instructions, the photographs are to be submitted without being signed and shall be signed at such later time during the processing of the application as may be appropriate.

§ 333.2 Attachment of photographs to documents.

A signed photograph of the applicant must be securely and permanently attached to each certificate of naturalization or citizenship, to each original and duplicate declaration of intention issued by the Service, and to each replacement copy of a declaration of intention, certificate of naturalization, or certificate of citizenship issued by the Service. If a seal is affixed to the document, the imprint of a part of the seal must extend over the lower portion of the photograph in such a manner as not to obscure the features of the applicant.

PART 334—APPLICATION FOR NATURALIZATION

50. The heading for part 334 is revised as set forth above.

51. The table of contents and the authority citation for part 334 are revised to read as follows:

334.1 Filing of application for naturalization.

334.2 Application for naturalization.

334.3 Oath or affirmation on application.

334.4 Investigation and report if applicant is sick or disabled.

334.5 Amendment of application for naturalization, reopening proceedings.

334.6–334.10 [Reserved].

334.11 Declaration of intention.

334.12-334.15 [Reserved]

334.16 Amendment of petition for naturalization.

334.17 Transfer of petition for naturalization.

334.18 Withdrawal of petition and failure to prosecute.

Authority: 8 U.S.C. 1103, 1443.

§ 334.3, 334.13, 334.15, and 334.21

[Removed]

52. Sections 334.3, 334.13, 334.15, and 334.21 are removed.

53. Section 334.1 is revised to read as follows:

§ 334.1 Filing of application for naturalization.

Any person who is an applicant under sections 316, 319, 322, 324, 325, 327, 328, 329, or 330 of the Act and the corresponding parts of this chapter, may apply for naturalization in accordance with the procedures prescribed in this chapter at the Service office indicated in the appropriate part of this chapter.

54. Part 334 is amended by

a. Redesignating § 334.2 as § 334.3;

b. Redesignating § 334.11 as § 334.2;

c. Redesignating § 334.14 as § 334.4; and

d. Revising newly redesignated §§ 334.2, 334.3 and 334.4 to read as follows:

§ 334.2 Application for naturalization.

(a) An applicant may file an application for naturalization by filing a completed Form N-400 signed in the applicant's own handwriting, if physically able to do so, and by including any other documents required by parts 316, 319, 322, 324, 325, 327, 328, 329, and 330 of this chapter, as appropriate. An application prepared for a person physically unable to write shall be signed by the preparer, in the space marked "Preparer's signature." The applicant shall include the fee as required in § 103.7 of chapter B of this title, and a photocopy of the applicant's Alien Registration Card (Form I-551 or Form I-151).

(b) An application for naturalization may be filed up to 90 days prior to the completion of the required period of residence, which may include the three-month period of residence required to establish jurisdiction under section 316(a) or 319(a) of the Act.

§ 334.3 Oath or affirmation on application.

The application for naturalization shall be executed under the following oath (or affirmation): "I swear (affirm) and certify under penalty of perjury under the laws of the United States of America that I know that the contents of this application for naturalization

subscribed by me, and the evidence submitted with it, are true and correct to the best of my knowledge and belief."

§ 334.4 Investigation and report if applicant is sick or disabled.

Whenever it appears that an applicant for naturalization may be unable, because of sickness or other disability, to appear for the initial examination on the application or for any subsequent hearing, the district director shall cause an investigation to be conducted to determine the circumstances surrounding the sickness or disability. The district director shall determine, based on available medical evidence, whether the sickness or disability is of a nature which so incapacitates the applicant as to prevent the applicant's appearance at a Service office or court having jurisdiction over the applicant's place of residence. If so, the district director may designate another place where the applicant may appear for the requisite naturalization proceedings.

55. Section 334.5 is added to read as follows:

§ 334.5 Amendment of application for naturalization; reopening proceedings.

(a) *Clerical amendments*—(1) *By applicant*. An applicant may request that the application for naturalization be amended either prior to or subsequent to the administration of the oath of allegiance.

(2) *By Service*. The Service may amend, at any time, an application for naturalization when in receipt of information that clearly indicates that a clerical error has occurred.

(3) *Amendment procedure*. Any amendment will be limited to the correction of clerical errors arising from oversight or omission. If the amendment is approved, the amended application shall be filed with the original application for naturalization.

(b) *Substantive amendments*. Any substantive amendments which affect the jurisdiction or the decision on the merits of the application will not be authorized. When the Service is in receipt of any information that would indicate that an application for naturalization should not have been granted on the merits, the Service may institute proceedings to reopen the application before admission to citizenship, or to revoke the naturalization of a person who has been admitted to citizenship, in accordance with section 340 of the Act and § 335.5 of this chapter.

§§ 334.6-334.10 [Reserved]

56. Sections 334.6-334.10 are reserved.

§ 334a.1 [Redesignated as § 334.11].

57. Section 334a.1 is redesignated as § 334.11, and is revised to read as follows:

§ 334.11 Declaration of intention.

Any person who is a lawful permanent resident over 18 years of age may file an application for a declaration of intention to become a citizen of the United States. Such application, with the requisite fee, shall be filed on Form N-300 with the district director of the Service office having jurisdiction over the applicant's place of residence. The original application for the declaration of intention shall be retained and filed in the applicant's Service file. The duplicate copy of the application shall be filed in chronological order in the official files of the district office. The declaration of intention shall be delivered to the applicant.

§§ 334.12-334.15 [Reserved]

58. Sections 334.12 through 334.15 are reserved.

§ 334.16 Amendment of petition for naturalization.

59. Section 334.16 is amended by:

a. Revising the heading as set forth above;

b. Adding in paragraph (a), in the first sentence, the phrase "filed prior to October 1, 1991" immediately preceding the phrase ", while such", and by removing the phrase "application or" immediately thereafter;

c. Removing, in paragraph (a), each reference to "or application" and "or applicant";

d. By removing in paragraph (b), in the paragraph heading and in the first sentence, the phrase "or application".

§ 334.17 [Amended]

60. Section 334.17 is amended by adding, in paragraph (a), immediately following the phrase "petition for naturalization" the phrase ", filed prior to October 1, 1991,".

§ 334.18 [Amended]

61. Section 334.18 is amended by:

a. Adding, in the first sentence of paragraph (a), immediately following the phrase "petition for naturalization" the phrase ", filed prior to October 1, 1991,"

b. Removing, in the first sentence, the phrase "after the filing thereof".

PART 334a—[REMOVED]

62. Part 334a is removed.

PART 335—EXAMINATION ON APPLICATION FOR NATURALIZATION

63. The heading of part 335 is revised as set forth above.

64. The table of contents and the authority citation for part 335 are revised to read as follows:

Sec.

- 335.1 Investigation of applicant.
- 335.2 Examination of applicant.
- 335.3 Determination on application; continuance of examination.
- 335.4 Use of record of examination.
- 335.5 Receipt of derogatory information after grant.
- 335.6-335.8 [Reserved].
- 335.9 Transfer of application.
- 335.10 Withdrawal of application.
- 335.11 Preliminary examinations on petitions for naturalization filed prior to October 1, 1991.
- 335.12 Recommendations on petitions for naturalization of the designated examiner and regional administrator; notice.
- 335.13 Notice of recommendation on petitions for naturalization of designated examiner.

Authority: 8 U.S.C. 1103, 1443, 1447.

65. Part 335 is further amended by:

- a. Adding a new § 335.1;
- b. Revising redesignated §§ 335.2 and 335.3;
- c. Adding new §§ 335.4 and 335.5;
- d. Reserving §§ 335.6 through 335.8;
- and
- e. Adding new §§ 335.9 and 335.10, to read as follows:

§ 335.1 Investigation of applicant.

Subsequent to the filing of an application for naturalization, the Service shall conduct an investigation of the applicant. The investigation shall consist, at a minimum, of a review of all pertinent records, police department checks, and a neighborhood investigation in the vicinities where the applicant has resided and has been employed, or engaged in business, for at least the five years immediately preceding the filing of the application. The district director may waive the neighborhood investigation of the applicant provided for in this paragraph.

§ 335.2 Examination of applicant.

(a) *General.* Subsequent to the filing of an application for naturalization, each applicant shall appear in person before a Service officer designated to conduct examinations pursuant to § 332.1 of this chapter. The examination shall be uniform throughout the United States and shall encompass all factors relating to the applicant's eligibility for naturalization. The applicant may request the presence of an attorney or representative who has filed an appearance in accordance with part 292 of chapter B of this title, to observe the examination and make notes without otherwise participating in the examination procedure.

(b) *Procedure.* Prior to the beginning of the examination, the Service officer shall make known to the applicant the official capacity in which the officer is conducting the examination. The applicant shall be questioned, under oath or affirmation, in a setting apart from the public. Whenever necessary, the examining officer shall correct written answers in the application for naturalization to conform to the oral statements made under oath or affirmation. The Service officer shall maintain, for the record, brief notations of the examination for naturalization. At a minimum, the notations shall include a record of the test administered to the applicant on English literacy and basic knowledge of the history and government of the United States. The Service officer may have a stenographic, mechanical, electronic, or videotaped transcript made, or may prepare an affidavit covering the testimony of the applicant. The questions to the applicant shall be repeated in different form and elaborated, if necessary, until the officer conducting the examination is satisfied that the applicant either fully understands the questions or is unable to understand English. The applicant and the Service shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(c) *Witnesses.* Witnesses, if called, shall be questioned to discover their own credibility and competency, as well as the extent of their personal knowledge of the applicant and his or her qualifications to become a naturalized citizen.

(1) *Issuance of subpoenas.* Subpoenas requiring the attendance of witnesses or the production of documentary evidence, or both, may be issued by the examining officer upon his or her own volition, or upon written request of the applicant or his or her attorney or representative. Such written request shall specify, as nearly as possible, the relevance, materiality, and scope of the testimony or documentary evidence sought and must show affirmatively that the testimony or documentary evidence cannot otherwise be produced.

(2) *Service of subpoenas.* Subpoenas shall be issued on Form I-138, and a record shall be made of service. The subpoena may be served by any person over 18 years of age, not a party to the case, designated to make such service by the district director.

(3) *Witness fees.* Mileage and fees for witnesses subpoenaed under this section shall be paid by the party at whose instance the subpoena is issued, at rates allowed and under conditions

prescribed by the Service. Before issuing a subpoena, the officer may require the deposit of an amount adequate to cover the fees and mileage involved.

(4) *Failure to appear.* If the witness subpoenaed neglects or refuses to testify or to produce documentary evidence as directed by the subpoena, the district director shall request that the United States Attorney for the proper district report such neglect or refusal to any District Court of the United States, and file a motion in such court for an order directing the witness to appear and to testify and produce the documentary evidence described in the subpoena.

(5) *Extraterritorial testimony.* The testimony of a witness may be taken outside the United States. The witness's name and address shall be sent to the Service office abroad which has jurisdiction over the witness's residence. The officer taking the statement shall be given express instructions regarding any aspect of the case which may require special development or emphasis during the interrogation of the witness.

(d) *Record of examination.* At the conclusion of the examination, all corrections made on the application form and all supplemental material shall be consecutively numbered and listed in the space provided on the applicant's affidavit contained in the application form. The affidavit must then be subscribed and sworn to, or affirmed, by the applicant and signed by the Service officer. Evidence received by the officer shall be placed into the record for determination of the case. All documentary or written evidence shall be properly identified and introduced into the record as exhibits by number, unless read into the record. A deposition or statement taken by a Service officer during the initial examination or any subsequent examination shall be included as part of the record on the application.

(e) *Use of interpreter.* If the use of an interpreter is authorized pursuant to § 312.4 of this chapter, the examining officer shall note on the application the use and identity of any interpreter. If the Service officer is proficient in the applicant's native language, the Service officer may conduct the examination in that language with the consent of the applicant.

§ 335.3 Determination on application; continuance of examination.

(a) The Service officer shall grant the application if the applicant has complied with all requirements for naturalization under this chapter. A decision to grant or deny the application shall be made at the time of the initial examination or

within 120-days after the date of the initial examination of the applicant for naturalization under § 335.2. The applicant shall be notified that the application has been granted or denied and, if the application has been granted, of the procedures to be followed for the administration of the oath of allegiance pursuant to part 337 of this chapter.

(b) Rather than make a determination on the application, the Service officer may continue the initial examination on an application for one reexamination, to afford the applicant an opportunity to overcome deficiencies on the application that may arise during the examination. The officer must inform the applicant of the grounds to be overcome. The applicant shall not be required to appear for a reexamination earlier than 60 days after the first examination. However, the reexamination on the continued case shall be scheduled within the 120-day period after the initial examination, except as otherwise provided under § 312.5(b) of this chapter. If the applicant is unable to overcome the deficiencies in the application, the application shall be denied pursuant to § 336.1 of this chapter.

§ 335.4 Use of record of examination.

In the event that an application is denied, the record of the examination on the application for naturalization, including the executed and corrected application form and supplements, affidavits, transcripts of testimony, documents, and other evidence, shall be submitted to the Service officer designated in § 332.1 of this chapter to conduct hearings on denials of applications for naturalization in accordance with part 336 of this chapter. The record of the examination shall be used for examining the petitioner and witnesses, if required to properly dispose of issues raised in the matter.

§ 335.5 Receipt of derogatory information after grant.

In the event that the Service receives derogatory information concerning an applicant whose application has already been granted as provided in § 335.3(a) of this chapter, but who has not yet taken the oath of allegiance as provided in part 337 of this chapter, the Service shall remove the applicant's name from any list of granted applications or of applicants scheduled for administration of the oath of allegiance, until such time as the matter can be resolved. The Service will notify the applicant of the receipt of derogatory information, with a motion to reopen the previously adjudicated application, giving the applicant 15 days to respond. If the

applicant overcomes the derogatory information, the application will be granted and the applicant will be scheduled for administration of the oath of allegiance. Otherwise the motion to reopen will be granted and the application will be denied pursuant to § 336.1 of this chapter.

§§ 335.6–335.8 [Reserved]

§ 335.9 Transfer of application.

(a) *Request for transfer of application.* An applicant who, after filing an application for naturalization, changes residence, or plans to change residence within three months, may request, in writing, that a pending application be transferred from the current Service office to the Service office having jurisdiction over the applicant's new place of residence. The request shall be submitted to the office where the application was originally filed. The request shall include the applicant's name, alien registration number, date of birth, complete current address including name of the county, complete address at the time of filing the application, reason for the request to transfer the application, and the date the applicant moved or intends to move to the new jurisdiction.

(b) *Discretion to authorize transfer.* The district director may authorize the transfer of an application for naturalization after such application has been filed. In the event that the district director does not consent to the transfer of the application, the application for naturalization shall be adjudicated on its merits by the Service office retaining jurisdiction, and, if denied, a final order will be issued.

§ 335.10 Withdrawal of application.

An applicant may request, in writing, that his or her application, filed with the Service, be withdrawn. If the district director consents to the withdrawal, the application will be denied without further notice to the applicant and without prejudice to any future application. The withdrawal by the applicant will constitute a waiver of any review pursuant to part 336 of this chapter. If the district director does not consent to the withdrawal, the application for naturalization shall be adjudicated on its merits.

66. Section 335.11 is amended by:
a. Revising the heading and paragraph (a) to read as follows:

§ 335.11 Preliminary examinations on petitions for naturalization filed prior to October 1, 1991.

(a) *When held.* Continued preliminary examinations shall be held on petitions for naturalization filed prior to October

1, 1991 when it is determined that further testimony is needed for the designated examiner to prepare a recommendation to the court consistent with § 335.12. The examinations shall be open to the public.

* * * * *

b. Amending paragraphs (b) through (g) by adding after the word "his" or "him" at each occurrence the phrase "or her"; and adding after the word "he" at each occurrence the phrase "or she".

c. Removing paragraph (h).

§ 335.12 Recommendations on petitions for naturalization of the designated examiner and regional administrator; notice.

67. Section 335.12 is amended by:

a. Revising the heading as set forth above;

b. Adding, in the first sentence, after the phrase "preliminary examination" the phrase "on a petition for naturalization filed prior to October 1, 1991";

c. Revising the phrase "regional commissioner" to read "regional operations liaison officer" at each occurrence;

d. Adding, in the second sentence, after the word "his" the phrase "or her";

e. Adding, in the fourth sentence, after the word "him" the phrase "or her"; and

f. Adding, in the fifth sentence, after the words "he" and "him" the phrases "or she" and "or her", respectively.

§ 335.13 Notice of recommendation on petitions for naturalization of designated examiner.

68. Section 335.13 is amended by:

a. Revising the heading as set forth above;

b. Adding, in the first sentence of paragraph (a), after the phrase "denial of the petition" the phrase "filed prior to October 1, 1991";

c. Adding, in the first sentence of paragraph (b), after the phrase "granting of the petition" the phrase "filed prior to October 1, 1991";

d. Revising the phrase "regional commissioner to read" "regional administrator" at each occurrence;

e. Adding, in paragraphs (a), (b), and (c) after the word "his" the phrase "or her" at each occurrence; and

f. Adding, in the first sentence of paragraph (d), after the word "he" the phrase "or she".

PARTS 335a AND 335c—[REMOVED]

69. Parts 335a and 335c are removed.

70. Part 336 is revised to read as follows:

PART 336—HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION

Sec.

- 336.1 Denial after section 335 examination.
 336.2 Hearing before an immigration officer.
 336.3–336.8 [Reserved].
 336.9 Judicial review of denial determinations on applications for naturalization.

Authority: 8 U.S.C. 1103, 1443, 1447, 1448.

§ 336.1 Denial after section 335 examination.

(a) After completing all examination procedures contained in part 335 of this chapter and determining to deny an application for naturalization, the Service shall serve a written notice of denial upon an applicant for naturalization no later than 120 days after the date of the applicant's first examination on the application.

(b) A notice of denial shall be prepared in a written, narrative format, and shall recite, in clear concise language, the pertinent facts upon which the determination was based, the specific legal section or sections applicable to the finding of ineligibility, and the conclusions of law reached by the examining officer in rendering the decision. Such notice of denial shall also contain a specific statement of the applicant's right either to accept the determination of the examining officer, or request a hearing before an immigration officer.

(c) Service of the notice of denial may be made in person or by certified mail to the applicant's last known address, or upon the attorney or representative of record as provided in part 292 of this chapter.

§ 336.2 Hearing before an Immigration officer.

(a) The applicant, or his or her authorized representative, may request a hearing on the denial of the applicant's application for naturalization by filing a request with the Service within thirty days after the applicant receives the notice of denial under § 336.1.

(b) Upon receipt of a timely request for a hearing, the Service shall schedule a review hearing before an immigration officer, within a reasonable period of time not to exceed 180 days from the date upon which the appeal is filed. The review shall be with an officer other than the officer who conducted the original examination under section 335 of the Act or who rendered the Service determination upon which the hearing is based, and who is classified at a grade level equal to or higher than the grade of the examining officer. The reviewing officer shall have the authority and

discretion to review the application for naturalization, to examine the applicant, and either to affirm the findings and determination of the original examining officer or to redetermine the original decision of the Service in whole or in part. The reviewing officer shall also have the discretion to review any administrative record which was created as part of the examination procedures as well as Service files and reports. He or she may receive new evidence or take such additional testimony as may be deemed relevant to the applicant's eligibility for naturalization. Based upon the complexity of the issues to be reviewed or determined, and upon the necessity of conducting further examinations with respect to essential naturalization requirements, such as literacy or civics knowledge, the reviewing immigration officer may, in his or her discretion, conduct a full *de novo* hearing or may utilize a less formal review procedure, as he or she deems reasonable and in the interest of justice.

§§ 336.3–336.8 [Reserved]

§ 336.9 Judicial review of denial determinations on applications for naturalization.

(a) *General.* The provisions in part 310 of this chapter shall provide the sole and exclusive procedures for requesting judicial review of final determinations on applications for naturalization made pursuant to section 336(a) of the Act and the provisions of this chapter by the Service on or after October 1, 1991.

(b) *Filing a petition.* Under these procedures an applicant shall file a petition for review in the United States District Court having jurisdiction over his or her place of residence, in accordance with chapter 7 of title 5, United States Code, within a period of not more than 120 days after the Service's final determination. The petition for review shall be brought against the Immigration and Naturalization Service, and service of the petition for review shall be made upon the Attorney General of the United States, and upon the official in charge of the Service office where the hearing was held pursuant to § 336.2.

(c) *Standard of review.* The review will be *de novo*, and the court will make its own findings of fact and conclusions of law. The court may also conduct, at the request of the petitioner, a hearing *de novo* on the application for naturalization.

(d) *Exhaustion of remedies.* A Service determination denying an application for naturalization under section 335(a) of the Act shall not be subject to judicial

review until the applicant has exhausted those administrative remedies available to the applicant under section 336 of the Act. Every petition for judicial review shall state whether the validity of the final determination to deny an application for naturalization has been upheld in any prior administrative proceeding and, if so, the nature and date of such proceeding and the forum in which such proceeding took place.

PART 337—OATH OF ALLEGIANCE

71. The authority citation for part 337 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1443, 1448.

72. Section 337.1 is amended by:

- a. Revising paragraph (a);
- b. Adding at the end of paragraph (b), the sentence "Any reference to 'oath of allegiance' in this chapter is understood to mean equally 'affirmation of allegiance' as described in this paragraph."
- c. Adding, in paragraph (c) after the word "his" or "him" the phrase "or her" at each occurrence.
- d. Adding a new paragraph (d) to read as follows:

§ 337.1 Oath of Allegiance.

(a) *Form of oath.* Except as otherwise provided in the Act and after receiving notice from the district director that such applicant is eligible for naturalization pursuant to § 335.3 of this chapter, an applicant for naturalization shall, before being admitted to citizenship, take in a public ceremony held within the United States the following oath of allegiance, to a copy of which the applicant shall affix his or her signature:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

(b) * * * Any reference to "oath of allegiance" in this chapter is understood to mean equally "affirmation of allegiance" as described in this paragraph.

* * * * *

(d) *Renunciation of title or order of nobility.* A petitioner or applicant for naturalization who has borne any hereditary title or has been of any of the orders of nobility in any foreign state shall, in addition to taking the oath of allegiance prescribed in paragraph (a) of this section, make under oath or affirmation in public an express renunciation of such title or order of nobility, in the following form:

(1) I further renounce the title of (give title or titles) which I have heretofore held; or

(2) I further renounce the order of nobility (give the order of nobility) to which I have heretofore belonged.

§ 337.2 [Redesignated as § 337.9]

73. Section 337.2 is redesignated as § 337.9.

74. New § 337.2 is added to read as follows:

§ 337.2 Oath administered by the Immigration and Naturalization Service.

(a) *Public ceremony.* An applicant for naturalization who has elected to have his or her oath of allegiance administered by the Service shall appear in person in a public ceremony. Such ceremony shall be held at a time and place designated by the Service within the United States and within the jurisdiction where the application for naturalization was filed, or into which the application for naturalization was transferred pursuant to § 335.9 of this chapter. Such ceremonies shall be conducted at regular intervals, but in all events at least once monthly. Such ceremonies shall be presented in such a manner as to preserve the dignity and significance of the occasion. District directors shall assure that ceremonies conducted in their districts, inclusive of those held by suboffice managers, are in keeping with the Model Plan for Naturalization Ceremonies. Organizations traditionally involved in activities surrounding the ceremony should be encouraged to participate in Service-administered ceremonies by local arrangement.

(b) *Authority to administer oath of allegiance.* The authority of the Attorney General to administer the Oath of Allegiance shall be delegated to the following officers of the Service: the Commissioner; district directors; deputy district directors; officers-in-charge; or persons acting in behalf of such officers due to their absence or because their positions are vacant. In exceptional cases where the district director or officer-in-charge determines that it is appropriate for employees of a different rank to conduct ceremonies, the district director or officer-in-charge may make a

request through the Commissioner to the Assistant Commissioner, Adjudications, for permission to delegate such authority. The request shall furnish the reasons for seeking exemption from the requirements of this paragraph. The Commissioner may delegate such authority to such other officers of the Service or the Department of Justice as he may deem appropriate.

§ 337.3 [Removed]

75. Section 337.3 is removed.

§ 337.11 [Redesignated as § 337.3]

76. Section 337.11 is redesignated as § 337.3, and is revised to read as follows:

§ 337.3 Oath of Allegiance administered to sick and disabled.

Whenever it appears that an applicant for naturalization may be unable, because of sickness or other disability, to take the oath of allegiance in a public ceremony, the district director shall cause an investigation to be conducted to determine the circumstances surrounding the sickness or disability. The district director shall also determine whether, as a matter of discretion, the oath may be administered at another place within his or her area of jurisdiction in the United States. The exercise of this alternative method of administering the oath shall be deemed appropriate only in those circumstances where the sickness or other disability so incapacitates the applicant as to prevent him or her from appearing at a public oath administration ceremony.

77. Section 337.4 is revised to read as follows:

§ 337.4 When requests for change of name granted.

When the court has granted the petitioner's change of name request, the petitioner shall subscribe his or her new name to the written oath of allegiance.

§§ 337.5-337.7 [Reserved]

78. Sections 337.5 through 337.7 are reserved.

79. A new § 337.8 is added to read as follows:

§ 337.8 Oath administered by the courts.

(a) An applicant for naturalization shall notify the Service at the time of the filing of, or no later than at the examination on, the application, of his or her election to have the oath of allegiance administered in an appropriate court having jurisdiction over the applicant's place of residence. In order to assist the applicant in making an informed election, the Service shall advise the candidate for naturalization of the upcoming

administrative and court oath ceremonies at which the applicant's naturalization may be scheduled if the applicant is found eligible for naturalization.

(b) In those instances in which the applicant has elected to have the oath administered in a court ceremony, the Service shall notify both the applicant and the clerk of court, in writing, that the applicant has been determined by the Attorney General to be eligible for admission to United States citizenship upon taking the requisite oath of allegiance and renunciation in a public ceremony to be scheduled by the court.

(c) After administering the oath of allegiance, the clerk of court shall issue to each person appearing in such ceremonies a document evidencing that such an oath was administered in accordance with § 339.1 of this chapter and shall make and keep on file, as part of the court's record system, evidence that such document was issued. The document prepared by the clerk shall not constitute proof of naturalization, and such document shall clearly reflect on its face the ceremonial nature of the oath-taking. Such document shall not be considered as evidence of United States citizenship.

(d) Within thirty days after the applicant has appeared in court to take the oath, the clerk of the court that administered the oath shall forward to the Service evidence of the oath having been administered, on forms prescribed for such purpose. The court shall also advise the Service of any change of name, or other judicial relief that may have been granted by the court as part of the oath administration proceeding, by forwarding a certified copy of the court order reflecting the exercise of judicial authority in the matter.

(e) Upon receipt of written confirmation from the court that the oath of allegiance has been administered, the Service shall deliver to the applicant within a reasonable period thereafter, a Certificate of Naturalization in accordance with part 338 of this chapter. The presence of a Service employee at the judicial ceremony to assist in the personal delivery of the Certificate of Naturalization shall not relieve the clerk of court of the requirements of paragraph (d) of this section.

80. Newly redesignated § 337.9 is revised to read as follows:

§ 337.9 Effective date of naturalization.

(a) An applicant for naturalization shall be deemed a citizen of the United States as of the date on which the applicant takes the prescribed oath of

allegiance, administered either by the Service in an administrative ceremony or in a ceremony conducted by an appropriate court under § 337.8.

(b) When the taking of the oath is waived for a child pursuant to part 322 of this chapter, the child shall be deemed a citizen of the United States as of the date upon which the waiver was granted by the Service. The appearance of the child and the child's parent(s) at an oath ceremony, if the oath is waived under this paragraph, is not required. Nothing in this paragraph is to be construed as preventing the appearance of the child and parent(s) at an oath ceremony.

PART 338—CERTIFICATE OF NATURALIZATION

81. The authority citation for part 338 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1443.

82. New §§ 338.1 and 338.2 are added to read as follows:

§ 338.1 Execution and issuance of certificate.

(a) *Issuance.* When an applicant for naturalization has taken and subscribed to the oath of allegiance in accordance with §§ 337.1, 337.2, and 337.3 of this chapter, a Certificate of Naturalization shall be issued to the applicant by the Service. When the oath of allegiance was taken before a Federal or State court in accordance with § 337.8 of this chapter, the Certificate shall not be issued until verification of the date and place of oath-taking is received from the court. The certificate shall be signed by the applicant. The Commissioner's signature shall be affixed to the certificate.

(b) *Execution of certificate.* The certificate shall be issued to the applicant in his or her true, full, and correct name as it exists at the time of the administration of the oath of allegiance. The certificate shall show, under "former nationality," the name of the applicant's last country of citizenship, as shown in the application and Service records, even though the applicant may be stateless at the time of admission to citizenship. Photographs shall be affixed to the certificate in the manner provided by part 333 of this chapter. The original certificate shall be delivered to the applicant in person or by certified mail.

§ 338.2 Execution in case name is changed.

Whenever the name of an applicant has been changed by order of a court as a part of a naturalization, the clerk of court, or his or her authorized deputy, shall forward a copy of the order

changing the applicant's name with the notifications required by part 339 of this chapter. The Certificate of Naturalization will be issued to the applicant in the name as changed.

§§ 338.14 through 338.16 [Redesignated as §§ 338.3 through 338.5]

83. Sections 338.14 through 338.16 are redesignated as §§ 338.3 through 338.5, and are revised to read as follows:

§ 338.3 Delivery of certificates.

No Certificate of Naturalization will be delivered in any case in which the naturalized person has not surrendered his or her alien registration receipt card to the Service. Upon a finding that the card is destroyed or otherwise unavailable, the district director may waive the surrender of the card and the Certificate of Naturalization shall then be delivered to the naturalized person.

§ 338.4 Signing of certificate.

If a child who has been admitted to citizenship under section 322 of the Act is unable to sign his or her name, the Certificate of Naturalization must be signed by the citizen parent who submitted the application for the child. The signature will read "(name of naturalized child) by (signature of parent)". A naturalized person whose application was signed in a foreign language may sign the certificate of naturalization in the same manner.

§ 338.5 Correction of certificates.

(a) Whenever a Certificate of Naturalization has been delivered which does not conform to the facts shown on the application for naturalization, or a clerical error was made in preparing the certificate, an application for issuance of a corrected certificate, Form N-565, without fee, may be filed by the naturalized person. The application shall be filed at the Service office having jurisdiction over the place of residence of the applicant.

(b) If the certificate was originally issued by a clerk of court under a prior statute and the district director finds that a correction is justified and can be made without mutilating the certificate, he or she shall authorize the clerk of the issuing court, or his or her authorized deputy, on Form N-459, in duplicate, to make the necessary correction and to place a dated endorsement on the reverse of the certificate, over the clerk's or deputy's signature and the seal of the court, explaining the correction. The authorization shall be filed with the naturalization record of the court, the corrected certificate shall be returned to the naturalized person, and the duplicate Form N-459 shall be endorsed

to show the date and nature of the correction and endorsement made, and then returned to the district director. No fee shall be charged the naturalized person for the correction. The district director shall forward the duplicate endorsed authorization to the official Service file.

(c) If the certificate was originally issued by the Service, and the district director finds that a correction was justified, the necessary correction shall be made to the certificate and a dated endorsement made on the reverse of the certificate, over the signature of the district director and the seal of the Department of Justice. A notation regarding the correction shall be placed on the Form N-565 which shall be forwarded to the Service file.

(d) When a correction made pursuant to paragraph (b) or (c) of this section would or does result in mutilation of a certificate, the district director shall issue a replacement certificate on Form N-570 and the surrendered certificate shall be destroyed.

(e) The correction will not be deemed to be justified where the naturalized person later alleges that the name or date of birth which the applicant stated to be his or her correct name or date of birth at the time of naturalization was not in fact his or her name or date of birth at the time of the naturalization.

§§ 338.6-338.10 [Reserved]

84. Sections 338.6 through 338.10 are reserved.

85. Section 338.11 is amended by revising the heading and the first sentence of paragraph (a) to read as follows:

§ 338.11 Execution and issuance of Certificate of Naturalization by clerk of court.

(a) When a petitioner for naturalization, whose petition for naturalization was filed prior to October 1, 1991, has taken and subscribed to the oath of allegiance, and a final order of citizenship has been signed by the court, a certificate of naturalization shall be issued in duplicate by the clerk of court on Form N-550 (rev. 11-1-87) or N-550C.

* * *

86. Section 338.12 is amended by revising the heading and the first sentence to read as follows:

§ 338.12 Endorsement by clerk of court in case name is changed.

Whenever the name of a petitioner, whose petition for naturalization was filed prior to October 1, 1991, has been changed by order of a court as part of a

naturalization, the clerk of court or his or her authorized deputy shall make the following endorsement on the front of the original and duplicate certificate of naturalization: "Name changed by decree of court from _____, as part of the naturalization." inserting in full the original name of the petitioner. * * *

87. Section 338.13 is amended by adding a sentence at the end of the paragraph to read as follows:

§ 338.13 Spoiled certificate.

* * * This section applies to certificates prepared by the clerk of court pursuant to § 338.11.

PART 339—FUNCTIONS AND DUTIES OF CLERKS OF COURT REGARDING NATURALIZATION PROCEEDINGS

88. The heading of part 339 is revised as set forth above.

89. The authority citation for part 339 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1443, 1448.

90. Sections 339.1 and 339.2 are revised to read as follows:

§ 339.1 Administration of oath of allegiance to applicants for naturalization.

It shall be the duty of a judge of a court that administers an oath of allegiance to insure that such oath is administered to each applicant for naturalization who has chosen to appear before the court. The clerk of court shall issue to each person to whom such an oath is administered a written notification verifying that such an oath has been administered. The written notification shall include the applicant's correct name, record of any name change, date of the administration of the oath, and the applicant's alien registration number.

§ 339.2 Monthly reports.

(a) *Administration of oath of allegiance.* The clerk of court shall submit to the Service office having administrative jurisdiction over the place in which the court is located, a monthly report of all applicants who have had the oath of allegiance administered by that court. The report shall include each applicant's name, change of name, alien registration number, and date of the administration of the oath. The report shall be submitted within 30 days after the close of the month in which the oath was administered.

(b) *Petitions filed for de novo hearings.* The clerk of court shall submit to the district director having administrative jurisdiction over the place in which the court is located, a

monthly report of all persons who have filed *de novo* review petitions before the court. The report shall include each petitioner's name, alien registration number, date of filing of the petition for a *de novo* review, and, once an order has been entered, the disposition.

(c) *Reports relating to petitions filed prior to October 1, 1991.* The clerks of court shall, on the first day of each month, submit to the district director or officer in charge having administrative jurisdiction over the place in which the court is located, a report on Form N-4, in duplicate, listing all certificates of naturalization issued or spoiled pursuant to § 338.11 of this chapter during the preceding month in accordance with the instructions contained in Form N-4. The report shall be accompanied by all duplicates of certificates of naturalization with stubs intact.

91. Section 339.5 is revised to read as follows:

§ 339.5 Recordkeeping.

The maintenance of records and submission of reports under this chapter may be accomplished by either electronic or paper means.

PART 340—REVOCATION OF NATURALIZATION

92. The authority citation for part 340 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1443.

93. Section 340.11 is amended by:

a. Adding, in the second sentence, "or she" after "he"; "a" before "revocation"; and removing the "s" at the end of the word "proceedings"; and

b. Adding new text at the end of the paragraph to read as follows:

§ 340.11 Reports.

* * * It shall be the responsibility of the district director to advise the Service office that originated the information upon which the revocation inquiry is based about the progress of the investigation and report the findings of the inquiry as soon as practicable.

PART 343b—SPECIAL CERTIFICATE OF NATURALIZATION FOR RECOGNITION BY A FOREIGN STATE

94. The authority citation for part 343b is revised to read as follows:

Authority: 8 U.S.C. 1103, 1443, 1454, 1455.

95. Part 343b is further amended by:

a. Revising, in § 343b.1, the form number "N-577" to read "N-565"; and

b. Revising, in § 343b.2, the form number "N-577" to read "N-565".

PART 344—[REMOVED]

96. Part 344 is removed.

PART 499—NATIONALITY FORMS

97. The authority citation for part 499 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 CFR part 2.

98. Section 499.1 is amended by removing the following forms from the listing of forms:

Form No., Title and Description

- N-7 (5-5-83)—Quarterly Abstract of Collections of Naturalization Fees.
- N-12 (1-30-82)—Penalty Envelope (to be addressed to any office of Service).
- N-13 (4-1-81)—Penalty Envelope (Large—to be addressed to any office of Service).
- N-305 (5-5-83)—Form Letter Notifying Alien that Form N-300 has been Forwarded to the Clerk of the Court.
- N-315 (3-1-80)—Declaration of Intention.
- N-400B (1-1-66)—Supplement to Application to File Petition for Naturalization (by a seaman, under section 330 of the Immigration and Nationality Act).
- N-402 (4-15-82)—Application to File Petition for Naturalization in Behalf of a Child (under section 322, Immigration and Nationality Act).
- N-405 (4-1-82)—Petition for Naturalization (under general provisions of the Immigration and Nationality Act).
- N-407 (3-25-82)—Petition for Naturalization (in behalf of a child, under section 322, Immigration and Nationality Act).
- N-414 (12-15-44)—Acknowledgement of Filing Petition for Naturalization.
- N-414a (7-15-65)—Acknowledgement of Filing Petition for Naturalization and Index Card.
- N-577 (5-5-83)—Application for a Special Certificate of Naturalization to Obtain Recognition as a Citizen of the United States by a Foreign State.

99. Section 499.1 is amended by adding, in the proper numerical sequence, the following forms:

§ 499.1 Prescribed forms.

* * * * *

Form No., Title and Description

* * * * *

- M-288 (1987)—United States History 1600-1987, Level II.
- M-289 (1987)—United States History 1600-1987, Level I.
- M-290 (1987)—U.S. Government Structure, Level II.

- M-291 (1987)—U.S. Government Structure, Level I.
 M-302 (3-16-89)—For The People * * *, U.S. Citizenship Education and Naturalization Information.
 M-303 (3-16-89)—By The People * * *, U.S. Government Structure.
 M-304 (3-16-89)—Of The People * * *, U.S. History 1600-1988.

* * * * *
 N-336 ()—Request for Hearing on a Decision in Naturalization Proceedings under section 336 of the Act.
 * * * * *

101. In section 499.1 references to forms N-400, N-445, and N-565 are revised to read as follows:

§ 499.1 Prescribed forms.

Form No., Title and Description

* * * * *
 N-400 (12-5-86)—Application for Naturalization.
 * * * * *

N-445 (4-15-82)—Notice to Petitioner to Appear in Court for Final Hearing on Petition for Naturalization, and Questionnaire to be Submitted by Petitioner at the Final Hearing or to Applicant to Appear for Oath Ceremony, and Questionnaire to be Submitted at the Oath Ceremony.
 * * * * *

N-565 (5-5-83)—Application to Replace a Naturalization/Citizenship Certificate.
 * * * * *

Dated: September 25, 1991.

William P. Barr,

Acting Attorney General.

[FR Doc. 91-23922 Filed 10-4-91; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90-AWA-3]

Alteration of the St. Louis Terminal Control Area; MO; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects the wording of Area D and Area F in the description of the St. Louis Terminal Control Area (TCA) and the section number of the amendment. A minor word change in Area D and Area F was omitted from the published descriptions

and this action corrects those omissions. There are no changes to the overall dimensions of the TCA. The section number previously given was § 71.403(b) instead of § 71.401(b).

EFFECTIVE DATE: 0901 u.t.c., November 14, 1991.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On May 1, 1991, the FAA amended part 71 by altering the St. Louis, MO, TCA (56 FR 20096). The primary aim of this modification to the St. Louis TCA is to improve the degree of safety while providing the most efficient use of the terminal airspace. This action improves the flow of traffic and increases safety in the St. Louis terminal area. Nonetheless, the descriptions for Area D and Area F of the TCA have been amended slightly to correct a segment that was inadvertently omitted. The section number previously given for the amendment was 14 CFR 71.403(b), which does not exist. The correct section reference is 14 CFR 71.401(b).

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, in the May 1, 1991, **Federal Register** on page 20098, in the third column, section number "71.403(b)" is corrected to read "71.401(b)" in both the heading and the amendatory instruction 2, and the wording in the descriptions under Area D and Area F of the St. Louis, MO, TCA, is corrected to read as follows:

§ 71.401(b) [Amended]

2. Section 71.401(b) is amended to read as follows:

St. Louis, MO [Corrected]

* * * * *

Area D [Corrected]

That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius arc of the Lambert-St. Louis International Airport, excluding that airspace bounded by the 15-mile arc on the southeast, Interstate 55/70 from the 15-mile arc to the Mississippi River, then southwest along the east bank of the Mississippi River to a point where it intercepts the 15-mile arc.

* * * * *

Area F [Corrected]

That airspace extending upward from 4,500 feet MSL and including 8,000 feet MSL in two areas: (1) to the northwest and within a 20-mile radius arc of the Lambert-St. Louis International Airport the area bounded by the northeast shore of the Illinois River on the north and by Interstate 64 (formerly Highway 40/61) on the south and within 8 miles each side of the Lambert-St. Louis International Airport Runway 12R ILS localizer northwesterly course extending outward from the 20-mile arc to a 30-mile radius arc; and (2) to the southeast and within a 20-mile radius arc of the Lambert-St. Louis International Airport and area bounded by Interstate 270 on the north and on the south by a line drawn between Dupo and Millstadt, Illinois, and within 8 miles each side of the Lambert-St. Louis International Airport Runway 30L ILS localizer southeasterly course extending outward from the 20-mile radius arc to the 30-mile radius arc.

* * * * *

Issued in Washington, DC, on September 26, 1991

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-23666 Filed 10-4-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 26655; Amdt. No. 1462]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

EFFECTIVE DATE: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.