

the applicant shall be permitted to withdraw his or her name from the court ceremony, the Service shall give written notice to the court of the applicant's withdrawal, and the applicant shall be scheduled for the next available oath ceremony, conducted by an Immigration Judge or the Service, as if he or she had never elected the court ceremony.

[58 FR 49915, Sept. 24, 1993, as amended at 60 FR 37804, July 24, 1995]

**§ 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 or an Immigration Judge in an administrative ceremony or in a ceremony conducted by an appropriate court under § 337.8 of this chapter.

(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.

[56 FR 50500, Oct. 7, 1991, as amended at 60 FR 37804, July 24, 1995]

**§ 337.10 Failure to appear for oath administration ceremony.**

An applicant who fails to appear without good cause for more than one oath administration ceremony for which he or she was duly notified shall be presumed to have abandoned his or her intent to be naturalized. Such presumption shall be regarded as the receipt of derogatory information, and the procedures contained in § 335.5 of this chapter shall be followed.

[58 FR 49916, Sept. 24, 1993]

**PART 338—CERTIFICATE OF NATURALIZATION**

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

**§ 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, Form N-550, shall be issued by the Service at the conclusion of the oath administration ceremony. For each applicant appearing at a judicial oath administration ceremony pursuant to § 337.8, the Service shall prepare the Certificate of Naturalization and forward it to the clerk of court sufficiently in advance of the ceremony to ensure the timely delivery on the date the oath administration ceremony is conducted.

(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 in part 333 of this chapter. The certificate shall be signed by the applicant. The Commissioner's signature shall be affixed to the certificate.

[58 FR 49916, Sept. 24, 1993]

**§ 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

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this chapter. The Certificate of Naturalization will be issued to the applicant in the name as changed.

[56 FR 50501, Oct. 7, 1991]

#### § 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 Permanent Resident 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.

[56 FR 50501, Oct. 7, 1991, as amended at 63 FR 70316, Dec. 21, 1998]

#### § 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.

[56 FR 50501, Oct. 7, 1991]

#### § 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,

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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.

[56 FR 50501, Oct. 7, 1991]

#### §§ 338.6—338.10 [Reserved]

#### § 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-