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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 337

[EOIR No. 104F; AG Order No. 1979–95]

RIN 1125–AA06

Administrative Naturalization: Oath of Allegiance

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On February 3, 1995, at 60 FR 6647, the Department of Justice published a rule finalizing the procedures implementing an administrative naturalization process as provided for by recent changes in the immigration laws. This rule will amend those procedures slightly by extending concurrent jurisdiction to administer the oath of allegiance to Immigration Judges with certain officers of the Immigration and Naturalization Service (Service). This change will provide a more formal setting for the oath of allegiance and add to the solemnity of the occasion upon which a person becomes a citizen of the United States. In addition, it will alleviate in some measure the burden on Service personnel and resources to hold periodic naturalization ceremonies by expanding the responsibility for this duty to Immigration Judges.

EFFECTIVE DATE: This final rule is effective July 24, 1995.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone: (703) 305–0470.

SUPPLEMENTARY INFORMATION: Title IV of the Immigration Act of 1990 (Pub. L. 101–649) (IMMACT) transferred jurisdiction over naturalization from the judiciary to the Attorney General, subject to judicial review, and redefined the naturalization process as an administrative proceeding. The Service has recently published comprehensive changes to the rules of procedure governing the naturalization process, and this rule is not intended to affect those measures. However, while the statutory authority for naturalization conferred jurisdiction on the Attorney General, this authority had been delegated to the Service. The effect of this rule will be to expand to the Immigration Judges within the Executive Office for Immigration Review the authority to administer the oath of allegiance, which is taken upon successful completion of the application process.

This final rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b). The Attorney General has determined that this rule is not a significant regulatory action under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is not necessary because this rule relates to rules of agency procedure and practice.

List of Subjects in 8 CFR Part 337

Citizenship and naturalization, Courts, Immigration and Naturalization Service.

Accordingly, title 8, chapter I of the Code of Federal Regulations is amended as follows:

PART 337—OATH OF ALLEGIANCE

1. The authority citation for part 337 continues to read as follows:

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

2. Section 337.2 is revised to read as follows:

§ 337.2 Oath administered by the Immigration and Naturalization Service or an Immigration Judge.

(a) *Public ceremony.* An applicant for naturalization who has elected to have his or her oath of allegiance administered by the Service or an Immigration Judge and is not subject to the exclusive oath administration authority of an eligible court pursuant to section 310(b) of the Act shall appear in person in a public ceremony, unless such appearance is specifically excused under the terms and conditions set forth in this part. Such ceremony shall be held at a time and place designated by the Service or the Executive Office for Immigration Review 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 as frequently as necessary to ensure timely naturalization, but in all events at least once monthly where it is required to minimize unreasonable delays. Such ceremonies shall be presented in such a manner as to preserve the dignity and significance of the occasion. District directors shall ensure that ceremonies conducted by the Service 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 Immigration Judges and to the following officers of the Service: The Commissioner; district directors; deputy district directors; officers-in-charge; assistant 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 or she may deem appropriate.

(c) *Execution of questionnaire.* Immediately prior to being administered the oath of allegiance, each applicant shall complete the questionnaire on Form N–445. Each completed Form N–445 shall be reviewed by an officer of the Service who may question the applicant regarding the information thereon. If derogatory information is revealed, the applicant's name shall be removed from the list of eligible persons as provided in § 335.5 of this chapter and he or she shall not be administered the oath.

3. Section 337.3 is revised to read as follows:

§ 337.3 Expedited administration of oath of allegiance.

(a) An applicant may be granted an expedited oath administration ceremony by either the court or the Service upon demonstrating sufficient cause. In determining whether to grant an expedited oath administration ceremony, the court or the district director shall consider special circumstances of a compelling or humanitarian nature. Special circumstances may include but are not limited to:

(1) The serious illness of the applicant or a member of the applicant's family;

(2) Permanent disability of the applicant sufficiently incapacitating as to prevent the applicant's personal appearance at a scheduled ceremony;

(3) The developmental disability or advanced age of the applicant which would make appearance at a scheduled ceremony inappropriate; or

(4) Urgent or compelling circumstances relating to travel or employment determined by the court or the Service to be sufficiently meritorious to warrant special consideration.

(b) Courts exercising exclusive authority may either hold an expedited oath administration ceremony or refer the applicant to the Service in order for either the Immigration Judge or the Service to conduct an oath administration ceremony, if an expedited judicial oath administration ceremony is impractical. The court shall inform the district director in writing of its decision to grant the applicant an expedited oath administration ceremony and that the court has relinquished exclusive jurisdiction as to that applicant.

(c) All requests for expedited administration of the oath of allegiance shall be made in writing to either the court or the Service. Such requests shall contain sufficient information to substantiate the claim of special circumstances to permit either the court or the Service to properly exercise the discretionary authority to grant the relief sought. The court or the Service may seek verification of the validity of the information provided in the request. If the applicant submits a written request to the Service, but is awaiting an oath administration ceremony by a court pursuant to § 337.8, the Service promptly shall provide the court with a copy of the request without reaching a decision on whether to grant or deny the request.

4. Section 337.7 is amended by revising paragraph (a) to read as follows:

§ 337.7 Information and assignment of individuals under exclusive jurisdiction.

(a) No later than at the time of the examination on the application pursuant to § 335.2 of this chapter, an employee of the Service shall advise the applicant of his or her right to elect the site for the administration of the oath of allegiance, subject to the exclusive jurisdiction provision of § 310.3(d) of this chapter. In order to assist the applicant in making an informed decision, the Service shall advise the applicant of the upcoming Immigration Judge or Service conducted and judicial ceremonies at which the applicant may appear, if found eligible for naturalization.

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5. Section 337.8 is amended by revising paragraph (f) to read as follows:

§ 337.8 Oath administered by the courts.

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(f) *Withdrawal from court.* An applicant for naturalization not subject to the exclusive jurisdiction of § 310.3(d) of this chapter, who has elected to have the oath administered in a court oath ceremony, may, for good cause shown, request that his or her name be removed from the list of persons eligible to be administered the oath at a court oath ceremony and request that the oath be administered in a ceremony conducted by an Immigration Judge or the Service. Such request shall be in writing to the Service office which granted the application and shall cite the reasons for the request. The district director or officer-in-charge shall consider the good cause shown and the best interests of the applicant in making a decision. If it is determined that 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.

6. Section 337.9 is amended by revising paragraph (a) 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 or an Immigration Judge in an administrative ceremony or in a ceremony conducted by an appropriate court under § 337.8 of this chapter.

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Dated: July 14, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–18068 Filed 7–21–95; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 50

[Docket No. 94–133–1]

Tuberculosis in Cattle, Bison, and Cervids; Payment of Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the tuberculosis indemnity regulations to provide for the payment of indemnity for cervids destroyed because of tuberculosis. We are also amending these regulations to provide for the payment of indemnity for cattle, bison, and cervids found to have been exposed to tuberculosis by reason of association with any tuberculous livestock. We believe that these changes will encourage owners to rapidly remove cattle, bison, and cervids affected with and exposed to tuberculosis from their herds. Rapid removal of such cattle, bison, and cervids will help protect other cattle, bison, and cervids from