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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