

Finding Aids section of the printed volume and on GPO Access.

PART 318—PENDING REMOVAL PROCEEDINGS

AUTHORITY: 8 U.S.C. 1103, 1252, 1429, 1443; 8 CFR part 2.

SOURCE: 62 FR 10394, Mar. 6, 1997, unless otherwise noted.

§ 318.1 Warrant of arrest.

For the purposes of section 318 of the Act, a notice to appear issued under 8 CFR part 239 (including a charging document issued to commence proceedings under sections 236 or 242 of the Act prior to April 1, 1997) shall be regarded as a warrant of arrest.

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

Sec.

319.1 Person living in marital union with United States citizen spouse.

319.2 Person whose United States citizen spouse is employed abroad.

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.

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

319.5 Public international organizations in which the U.S. participates by treaty or statute.

319.6 United States nonprofit organizations engaged abroad in disseminating information which significantly promotes U.S. interests.

319.7–319.10 [Reserved]

319.11 Filing of application.

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

§ 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