

## § 340.2

## 8 CFR Ch. I (1–1–10 Edition)

the grounds for reopening, the district director may reconsider the decision to reopen the naturalization application and to revoke naturalization, and affirm the original decision naturalizing the applicant. In such a case, it is not necessary for the district director to forward the case to the Administrative Appeals Unit. If, after the district director affirms an original naturalization grant under this paragraph, the Service obtains additional evidence of the grounds set forth in paragraph (a) of this section, the Service may not bring a new motion to reopen the naturalization proceeding and to revoke naturalization, but may seek to revoke the applicant's naturalization only pursuant to section 340(a) of the Act.

(f) *Judicial review.* If a decision of the Office of Examinations, Administrative Appeals Unit, is adverse to the applicant, the applicant may seek judicial review in accordance with section 310 of the Act.

(g) *Effect of final decision of denial upon applicant's status.* (1) A final decision to reopen a naturalization proceeding and to revoke naturalization shall be effective as of the date of the original order purporting to admit the applicant to citizenship. The order purporting to admit the applicant to citizenship shall then have no legal effect.

(2) A district director's decision to reopen naturalization proceedings and to revoke naturalization will be final, unless the applicant seeks administrative or judicial review within the period specified by law or regulation.

(3) When a decision to reopen naturalization proceedings and to revoke naturalization becomes final, the district director shall order the applicant to surrender his or her certificate of naturalization. The district director shall then cancel the certificate of naturalization, and shall also notify the Department of State of the revocation of naturalization.

(4) Notwithstanding the service of a notice of intent to reopen naturalization proceedings and to revoke naturalization, the applicant shall be considered to be a citizen of the United States until a decision to reopen proceedings and deny naturalization becomes final.

(h) *Applicant's request for reopening or modification of application.* After having been granted naturalization and administered the oath of allegiance and renunciation, an applicant may move that the Service reopen his or her naturalization application for the purpose of amending the application in accordance with § 334.5 of this chapter.

[61 FR 55553, Oct. 28, 1996, as amended at 65 FR 17128, Mar. 31, 2000]

### § 340.2 Revocation proceedings pursuant to section 340(a) of the Act.

(a) *Recommendations for institution of revocation proceedings.* Whenever it appears that any grant of naturalization may have been illegally procured or procured by concealment of a material fact or by willful misrepresentation, the facts shall be reported to the district director having jurisdiction over the naturalized person's last known place of residence in the United States. If the district director is satisfied that a prima facie case exists for revocation pursuant to section 340(a) of the Act, he or she shall report the facts in writing to the Regional Director, with a recommendation regarding the institution of revocation proceedings.

(b) *Recommendation for criminal prosecution.* If it appears to the district director that a case described in paragraph (a) of this section or one in which a final decision has been reached under § 340.1(g) is amenable to criminal penalties under 18 U.S.C. 1425 for unlawful procurement of citizenship or naturalization, the district director may present such facts to the appropriate United States Attorney for possible criminal prosecution.

(c) *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.

[61 FR 55554, Oct. 28, 1996]

## PART 341—CERTIFICATES OF CITIZENSHIP

Sec.  
341.1 Application.