

(b) *Additional requirements if child is adopted.* If an adopted child, all of the requirements in paragraph (a) of this section must be fulfilled and the child must satisfy the requirements applicable to adopted children under section 101(b)(1) of the Act.

(c) *Exceptions for children of military personnel.* Pursuant to section 322(d) of the Act, a child of a member of the Armed Forces of the United States residing abroad is exempt from the temporary physical presence, lawful admission, and maintenance of lawful status requirements under 8 CFR 322.2(a)(5), if the child:

- (1) Is authorized to accompany and reside abroad with the member of the Armed Forces pursuant to the member's official orders; and
- (2) Is accompanying and residing abroad with the member of the Armed Forces.

[66 FR 32144, June 13, 2001, as amended at 76 FR 53799, Aug. 29, 2011]

§ 322.3 Application and supporting documents.

(a) *Application.* A U.S. citizen parent of an alien child (including an adopted child) may file an application for the child to become a citizen and obtain a certificate of citizenship under section 322 of the Act by submitting an application on the form prescribed by USCIS in accordance with the form instructions and with the fee prescribed by 8 CFR 103.7(b)(1). If the U.S. citizen parent has died, the child's U.S. citizen grandparent or U.S. citizen legal guardian may submit the application, provided the application is filed not more than 5 years after the death of the U.S. citizen parent.

(b) *Evidence.* (1) An applicant under this section shall establish eligibility under § 322.2. In addition to the forms and the appropriate fee as required in § 103.7(b)(1) of this chapter, an applicant must submit the following required documents unless such documents are already contained in the Service administrative file(s):

- (i) The child's birth certificate or record;
- (ii) Marriage certificate of child's parents (if applicable);
- (iii) If the child's parents were married before their marriage to each

other, proof of termination of any previous marriage of each parent (e.g., death certificate or divorce decree);

(iv) Evidence of U.S. citizenship of parent (*i.e.*, birth certificate; naturalization certificate; FS-240, Report of Birth Abroad; a valid unexpired U.S. passport; or certificate of citizenship);

(v) If the child was born out of wedlock, documents verifying legitimation according to the laws of the child's residence or domicile or father's residence or domicile (if applicable);

(vi) In case of divorce, legal separation, or adoption, documentation of legal custody (if applicable);

(vii) Documentation establishing that the U.S. citizen parent or U.S. citizen grandparent meets the required physical presence requirements (e.g., school records, military records, utility bills, medical records, deeds, mortgages, contracts, insurance policies, receipts, or attestations by churches, unions, or other organizations);

(viii) Evidence that the child is present in the United States pursuant to a lawful admission and is maintaining such lawful status, or evidence establishing that the child qualifies for an exception to these requirements as provided in 8 CFR 322.2(c) pursuant to section 322(d) of the Act. Such evidence may be presented at the time of interview when appropriate;

(ix) If adopted, a copy of a full, final adoption decree;

(x) For adopted children (not orphans) applying under section 322 of the Act, evidence that they satisfy the requirements of section 101(b)(1)(E);

(xi) For adopted orphans applying under section 322 of the Act, a copy of notice of approval of the orphan petition and supporting documentation for such petition (except the home study) or evidence that the child has been admitted for lawful permanent residence in the United States with the immigrant classification of IR-3 (Orphan adopted abroad by a U.S. citizen) or IR-4 (Orphan to be adopted by a U.S. citizen);

(xii) For a Hague Convention adoptee applying under section 322 of the Act, a copy of the notice of approval of the Convention adoptee petition and its supporting documentation, or evidence that the child has been admitted for

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lawful permanent residence in the United States with the immigrant classification of IH-3 (Hague Convention Orphan adopted abroad by a U.S. citizen) or IH-4 (Hague Convention Orphan to be adopted by a U.S. citizen); and

(xiii) Evidence of all legal name changes, if applicable, for the child, U.S. citizen parent, U.S. citizen grandparent, or U.S. citizen legal guardian.

(2) If USCIS requires any additional documentation to make a decision on the application, the parents may be asked to provide that documentation under separate cover or at the time of interview. Parents do not need to submit documents that were submitted in connection with: An application for immigrant visa and retained by the American Consulate for inclusion in the immigrant visa package, or another immigrant petition or application and included in a Service administrative file. Parents should indicate that they wish to rely on such documents and identify the administrative file(s) by name and alien number. The Service will only request the required documentation again if necessary.

[66 FR 32144, June 13, 2001, as amended at 72 FR 56867, Oct. 4, 2007; 74 FR 26940, June 5, 2009; 76 FR 53799, Aug. 29, 2011]

§ 322.4 Interview.

The U.S. citizen parent and the child must appear in person before a USCIS officer for examination on the application under this section. If the U.S. citizen parent is deceased, the child's U.S. citizen grandparent or U.S. citizen legal guardian who filed the application on the child's behalf must appear.

[76 FR 53799, Aug. 29, 2011]

§ 322.5 Decision.

(a) *Approval of application.* If the application for certificate of citizenship is approved, after the applicant takes the oath of allegiance prescribed in 8 CFR 337.1 (unless the oath is waived), USCIS will issue a certificate of citizenship. The child is a citizen as of the date of approval and administration of the oath of allegiance.

(b) *Denial of application.* If the USCIS decision is to deny the application for a certificate of citizenship under this

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section, the applicant will be furnished with the reasons for denial and advised of the right to appeal in accordance with the provisions of 8 CFR 103.3(a). An applicant may file an appeal within 30 days of service of the decision in accordance with the instructions on the form prescribed by USCIS for that purpose, and with the fee required by 8 CFR 103.7(b)(1).

(c) *Subsequent application.* After an application for a certificate of citizenship has been denied and the time for appeal has expired, USCIS will reject a subsequent application submitted by the same individual and the applicant will be instructed to submit a motion for reopening or reconsideration in accordance with 8 CFR 103.5. The motion must be accompanied by the rejected application and the fee specified in 8 CFR 103.7(b)(1).

[76 FR 53800, Aug. 29, 2011]

PART 324—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: WOMEN WHO HAVE LOST UNITED STATES CITIZENSHIP BY MARRIAGE AND FORMER CITIZENS WHOSE NATURALIZATION IS AUTHORIZED BY PRIVATE LAW

Sec.

324.1 Definitions.

324.2 Former citizen at birth or by naturalization.

324.3 Women, citizens of the United States at birth, who lost or are believed to have lost citizenship by marriage and whose marriage has terminated.

324.4 Women restored to United States citizenship by the act of June 25, 1936, as amended by the act of July 2, 1940.

324.5 Former citizen of the United States whose naturalization by taking the oath is authorized by a private law.

AUTHORITY: 8 U.S.C. 1103, 1435, 1443, 1448, 1101 note.

§ 324.1 Definitions.

As used in this part:

Oath means the Oath of Allegiance as prescribed in section 337 of the Act.

[56 FR 50490, Oct. 7, 1991]