

Department of Homeland Security

§ 318.1

- Customs Cooperation Council (E.O. 11596, June 5, 1971).
- European Space Research Organization (ESRO) (E.O. 11760, Jan. 17, 1974).
- Food and Agriculture Organization, The (E.O. 9698, Feb. 19, 1946).
- Great Lakes Fishery Commission (E.O. 11059, Oct. 23, 1962).
- Inter-American Defense Board (E.O. 10228, Mar. 26, 1951).
- Inter-American Development Bank (E.O. 10873, Apr. 8, 1960).
- Inter-American Institute for Cooperation on Agriculture (E.O. 9751, July 11, 1946).
- Inter-American Statistical Institute (E.O. 9751, July 11, 1946).
- Inter-American Tropical Tuna Commission (E.O. 11059, Oct. 23, 1962).
- Intergovernmental Committee for European Migration (formerly the Provisional Intergovernmental Committee for the Movement of Migrants from Europe) (E.O. 10335, Mar. 28, 1952).
- Intergovernmental Maritime Consultative Organization (E.O. 10795, Dec. 13, 1958).
- International Atomic Energy Agency (E.O. 10727, Aug. 31, 1957).
- International Bank for Reconstruction and Development (E.O. 9751, July 11, 1946).
- International Centre for Settlement of Investment Disputes (E.O. 11966, Jan. 19, 1977).
- International Civil Aviation Organization (E.O. 9863, May 31, 1947).
- International Coffee Organization (E.O. 11225, May 22, 1965).
- International Cotton Advisory Committee (E.O. 9911, Dec. 19, 1947).
- International Development Association (E.O. 11966, Jan. 19, 1977).
- International Fertilizer Development Center (E.O. 11977, Mar. 14, 1977).
- International Finance Corporation (E.O. 10680, Oct. 2, 1956).
- International Food Policy Research Institute (E.O. 12359, Apr. 22, 1982).
- International Hydrographic Bureau (E.O. 10769, May 29, 1958).
- International Institute for Cotton (E.O. 11283, May 27, 1966).
- International Joint Commission—United States and Canada (E.O. 9972, June 25, 1948).
- International Labor Organization, The (functions through staff known as The International Labor Office) (E.O. 9698, Feb. 19, 1946).
- International Maritime Satellite Organization (E.O. 12238, Sept. 12, 1980).
- International Monetary Fund (E.O. 9751, July 11, 1946).
- International Pacific Halibut Commission (E.O. 11059, Oct. 23, 1962).
- International Secretariat for Volunteer Service (E.O. 11363, July 20, 1967).
- International Telecommunication Union (E.O. 9863, May 31, 1947).
- International Telecommunications Satellite Organization (INTELSAT) (E.O. 11718, May 14, 1973).
- International Wheat Advisory Committee (E.O. 9823, Jan. 24, 1947).
- Multinational Force and Observers (E.O. 12359, Apr. 22, 1982).
- Organization for European Economic Cooperation (E.O. 10133, June 27, 1950) (Now known as Organization for Economic Cooperation and Development; 28 FR 2959, Mar. 26, 1963).
- Organization of African Unity (OAU) (E.O. 11767, Feb. 19, 1974).
- Organization of American States (includes Pan American Union) (E.O. 10533, June 3, 1954).
- Pan American Health Organization (includes Pan American Sanitary Bureau) (E.O. 10864, Feb. 18, 1960).
- Preparatory Commission of the International Atomic Energy Agency (E.O. 10727, Aug. 31, 1957).
- Preparatory Commission for the International Refugee Organization and its successor, the International Refugee Organization (E.O. 9887, Aug. 22, 1947).
- South Pacific Commission (E.O. 10086, Nov. 25, 1949).
- United International Bureau for the Protection of Intellectual Property (BIRPI) (E.O. 11484, Sept. 29, 1969).
- United Nations, The (E.O. 9698, Feb. 19, 1946).
- United Nations Educational, Scientific, and Cultural Organizations (E.O. 9863, May 31, 1947).
- Universal Postal Union (E.O. 10727, Aug. 31, 1957).
- World Health Organization (E.O. 10025, Dec. 30, 1948).
- World Intellectual Property Organization (E.O. 11866, June 18, 1975).
- World Meteorological Organization (E.O. 10676, Sept. 1, 1956).
- [32 FR 9634, July 4, 1967]
- EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 316.20, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

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;

(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 applicant whose relationship to the citizen spouse terminates before the applicant's admission to citizenship, even though the applicant subsequently marries another United States citizen.

(ii) *Separation*—(A) *Legal separation.* Any legal separation will break the continuity of the marital union required for purposes of this part.

(B) *Informal separation.* Any informal separation that suggests the possibility of marital disunity will be evaluated on a case-by-case basis to determine whether it is sufficient enough to signify the dissolution of the marital union.