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(2) Service in a National Guard unit during such time as the unit is Federally recognized as a reserve component of the Armed Forces of the United States.

§ 328.2 Eligibility.

To be eligible for naturalization under section 328(a) of the Act, an applicant must establish that the applicant:

(a) Has served honorably in and, if separated, has been separated honorably from, the Armed Forces of the United States;

(b) Has served under paragraph (a) of this section for a period of 1 or more years, whether that service is continuous or discontinuous;

(c) Is a lawful permanent resident of the United States at the time of the examination on the application;

(d) Has been, during any period within five years preceding the filing of the application for naturalization, or the examination on the application if eligible for early filing under section 334(a) of the Act, and continues to be, 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.

(1) An applicant is presumed to satisfy the requirements of this paragraph during periods of honorable service under paragraph (a) of this section.

(2) An applicant must establish that he or she satisfies the requirements of this paragraph from the date of discharge from military until the date of admission to citizenship.

(3) An applicant whose honorable service is discontinuous must also demonstrate that he or she satisfies the requirements of this paragraph for those periods of time when that applicant is not in honorable service.

(e) Has complied with all other requirements for naturalization as provided in part 316 of this chapter, except that:

(1) An applicant who files an application for naturalization while still in honorable service, or within six months after termination of such service, is generally not required to satisfy the residence requirements under § 316.2(a)(3) through (a)(6) of this chapter; however, if the applicant's military service is discontinuous, that applicant must establish, for periods between honorable service during the five years immediately preceding the date of filing the application, or the examination on the application if eligible for early filing under section 334(a) of the Act, that he or she resided in the United States and in the State or Service district in the United States in which the application is filed.

(2) An applicant who files an application for naturalization more than six months after terminating honorable service must satisfy the residence requirements under § 316.2(a)(3) through (a)(6) of this chapter. However, any honorable service by the applicant within the five years immediately preceding the date of filing of the application shall be considered as residence within the United States for purposes of § 316.2(a)(3) of this chapter.

[56 FR 50492, Oct. 7, 1991, as amended at 75 FR 2787, Jan. 19, 2010]

§ 328.3 [Reserved]

§ 328.4 Application and evidence.

(a) *Application*. An applicant for naturalization under section 328 of the Act must submit an application on the form prescribed by USCIS in accordance with the form instructions and as provided in 8 CFR 316.4.

(b) *Evidence*. The applicant's eligibility for naturalization under 8 CFR 328.2(a) or (b) will be established only by the certification of honorable service by the executive department under which the applicant served or is serving.

[76 FR 53800, Aug. 29, 2011]

PART 329—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH ACTIVE DUTY OR CERTAIN READY RESERVE SERVICE IN THE UNITED STATES ARMED FORCES DURING SPECIFIED PERIODS OF HOSTILITIES

Sec.
329.1 Definitions.
329.2 Eligibility.
329.3 [Reserved]

329.4 Application and evidence.

AUTHORITY: 8 U.S.C. 1103, 1440, 1443; 8 CFR part 2.

§ 329.1 Definitions.

As used in this part:

Honorable service and separation means service and separation from service which the executive department under which the applicant served determines to be honorable, including:

(1) That such applicant had not been separated from service on account of alienage;

(2) That such applicant was not a conscientious objector who performed no military, air or naval duty; and

(3) That such applicant did not refuse to wear a military uniform.

Service in an active duty status in the Armed Forces of the United States means active service in the following organizations:

(1) United States Army, United States Navy, United States Marines, United States Air Force, United States Coast Guard; or

(2) A National Guard unit during such time as the unit is Federally recognized as a reserve component of the Armed Forces of the United States and that unit is called for active duty.

World War I means the period beginning on April 6, 1917, and ending on November 11, 1918.

[56 FR 50493, Oct. 7, 1991]

§ 329.2 Eligibility.

To be eligible for naturalization under section 329(a) of the Act, an applicant must establish that he or she:

(a) Has served honorably in the Armed Forces of the United States as a member of the Selected Reserve of the Ready Reserve or in an active duty status in the Armed Forces of the United States during:

(1) World War I;

(2) The period beginning on September 1, 1939 and ending on December 31, 1946;

(3) The period beginning on June 25, 1950 and ending on July 1, 1955;

(4) The period beginning on February 28, 1961 and ending on October 15, 1978; or

(5) Any other period as may be designated by the President in an Executive Order pursuant to section 329(a) of the Act;

(b) If separated, has been separated honorably from service in the Armed Forces of the United States under paragraph (a) of this section;

(c) Satisfies the permanent residence requirement in one of the following ways:

(1) Any time after enlistment or induction into the Armed Forces of the United States, the applicant was lawfully admitted to the United States as a permanent resident; or

(2) At the time of enlistment or induction, the applicant was physically present in the geographical territory of the United States, the Canal Zone, American Samoa, Midway Island (prior to August 21, 1959), or Swain's Island, or in the ports, harbors, bays, enclosed sea areas, or the three-mile territorial sea along the coasts of these land areas, whether or not the applicant has been lawfully admitted to the United States as a permanent resident;

(d) Has been, for at least one year prior to filing the application for naturalization, and continues to be, 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

(e) Has complied with all other requirements for naturalization as provided in part 316 of this chapter, except that:

(1) The applicant may be of any age;

(2) The applicant is not required to satisfy the residence requirements under § 316.2 (a)(3) through (a)(6) of this chapter; and

(3) The applicant may be naturalized even if an outstanding notice to appear pursuant to 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) exists.

[56 FR 50493, Oct. 7, 1991, as amended at 58 FR 49913, Sept. 24, 1993; 62 FR 10395, Mar. 6, 1997; 75 FR 2787, Jan. 19, 2010]

§ 329.3 [Reserved]

§ 329.4 Application and evidence.

(a) *Application.* An applicant for naturalization under section 329 of the Act

must submit an application on the form prescribed by USCIS in accordance with the form instructions and as provided in 8 CFR 316.4.

(b) *Evidence.* The applicant's eligibility for naturalization under 8 CFR 329.2(a), (b), or (c)(2) will be established only by a certification of honorable service by the executive department under which the applicant served or is serving.

[76 FR 53800, Aug. 29, 2011]

PART 330—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: SEAMEN

Sec.
330.1 Eligibility.
330.2 Application.

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

§ 330.1 Eligibility.

To be eligible for naturalization under section 330 of the Act, an applicant must establish that he or she:

(a) Has been lawfully admitted as a permanent resident of the United States;

(b) Has served honorably or with good conduct, during such periods of lawful residence, in a capacity other than as a member of the Armed Forces of the United States, on board:

(1) A vessel operated by the United States, or an agency thereof, the full legal and equitable title to which is in the United States; or

(2) A vessel, whose home port is the United States, and

(i) Which is registered under the laws of the United States; or

(ii) The full legal and equitable title to which is in a citizen of the United States, or a corporation organized under the laws of any of the several States of the United States;

(c) Served in the capacity specified in paragraph (b) of this section within five years immediately preceding the date on which the applicant filed the application for naturalization, or on which the alien is examined, if the application was filed early pursuant to section 334(a) of the Act.

(d) Has been, during the five years preceding the filing of the application for naturalization, or the examination on the application if the application was filed early under section 334(a) of the Act, and continues to be, 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.

(1) An applicant is presumed to satisfy the requirements of this paragraph during periods of service in accordance with paragraphs (b) and (c) of this section, as reflected by the records and certificates submitted by the applicant under § 330.2(b).

(2) An applicant must demonstrate that he or she satisfies the requirements of this paragraph for those required periods when that applicant did not perform service in accordance with paragraphs (b) and (c) of this section; and

(e) Has complied with all other requirements for naturalization as provided in part 316 of this chapter, except that, for purposes of the residence requirements under paragraphs § 316.2 (a)(3) and (a)(4) of this chapter, service satisfying the conditions of this section shall be considered as residence and physical presence within the United States.

[56 FR 50493, Oct. 7, 1991]

§ 330.2 Application.

(a) An applicant for naturalization under section 330 of the Act must submit an application on the form designated by USCIS.

(b) An applicant under this part must submit authenticated copies of the records and certificates of either:

(1) The Executive Department or Agencies having custody of records reflecting the applicant's service on a vessel in United States Government Service, if the applicant provided service under § 330.1(b)(1); or

(2) The masters of those vessels maintaining a home port in the United States, and either registered under the laws of the United States or owned by United States citizens or corporations, if the applicant provided service under § 330.1(b)(2).

[56 FR 50493, Oct. 7, 1991, as amended at 74 FR 26941, June 5, 2009; 76 FR 53800, Aug. 29, 2011]