

7 FAM 1200 APPENDIX D FRAUDULENT NATURALIZATION

*(CT:CON-286; 03-18-2009)
(Office of Origin: CA/OCS/PRI)*

7 FAM 1210 APPENDIX D INTRODUCTION

(CT:CON-286; 03-18-2009)

- a. As 7 FAM 1200 Appendix A discusses, the founding fathers felt strongly that a person not born in the United States has the right to take U.S. nationality by naturalization and discard the nationality of his or her birth (the right of expatriation).
- b. However, likewise, the early history of the United States reflects the view that a naturalized U.S. citizen who abandons the United States and returns to live in the country of his or her birth, should no longer be regarded as a U.S. citizen.
- c. While the U.S. Supreme Court in the *Schneider v. Rusk*, 377 U.S. 163 (1964), declared INA 352 and Sections 404 of the Nationality Act of 1940 unconstitutional, they did not strike down INA 340.

7 FAM 1220 APPENDIX D FORMER INA 340(D)

(CT:CON-286; 03-18-2009)

- a. Former INA 340(d) was repealed by the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416)(108 Statutes at Large 4308).
- b. Former INA 340(d) provided that any U.S. naturalized citizen who takes up permanent residence abroad within 5 years after naturalization may have the order admitting that person to citizenship revoked and the certificate of naturalization canceled by court action. Under the statute, the establishment of such permanent residence abroad was prima facie evidence of a lack of intention on the part of such person to reside permanently in the United States at the time of filing the petition for naturalization. This was amended in 1986 (Public Law 99-653) to apply to any U.S. naturalized citizen who took up permanent residence abroad within 1 year after naturalization.

- c. When instructed by CA/OCS/PRI, consular officers served notice on naturalized U.S. citizens abroad regarding judicial proceedings under former INA 340(d). (See 7 FAM 956.)

7 FAM 1230 APPENDIX D REVISED INA 340

(CT:CON-286; 03-18-2009)

- a. The revised INA 340(a) (8 U.S.C. 1451(a)) reflects that naturalization may be revoked on the ground that the certificate of naturalization was illegally procured or was procured by concealment of a material fact or by willful misrepresentation.
- b. INA 340(d) provides that a person shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship by virtue of revocation of a fraudulent naturalization of such person's parent or spouse through whom naturalization was obtained, regardless of whether such person is residing within or without the United States at the time of revocation.
- c. Certificates of Loss of Nationality are not prepared for these cases.
- d. INA 340(d) revocation of naturalization are judicial proceedings.
- e. Consular officers may be instructed by CA/OCS/PRI to serve notice on naturalized U.S. citizens abroad regarding judicial proceedings under former INA 340. (See 7 FAM 956.)
- f. U.S. passports cannot be revoked until the individual's U.S. naturalization is revoked. See 7 FAM 1380.