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Termination of Removal Proceedings for Naturalization

TERMINATION OF REMOVAL PROCEEDINGS FOR NATURALIZATION

A noncitizen **does not* need to submit proof of a pending naturalization application to seek termination for naturalization. 8 CFR § 1003.1(m)(1)(ii)(B), 1003.18(d)(1)(ii)(B). The new regulations establish that an EOIR adjudicator may terminate proceedings when the noncitizen is *prima facie* eligible for naturalization. 8 CFR §§ 1003.1(m)(1)(ii)(B), 1003.18(d)(1)(ii)(B). *The noncitizen is not required to file for naturalization prior to seeking termination on this basis.* However, the EOIR adjudicator may not terminate for naturalization if DHS affirmatively opposes the motion for termination on this basis.

The new standard is favorable to noncitizens in proceedings who are *prima facie* eligible for naturalization and seeking termination on this basis. It replaces the former 8 CFR § 1239.2(f), which the Board had interpreted to require an affirmative communication from DHS. This confirms the noncitizen's *prima facie* eligibility for naturalization before an EOIR adjudicator could terminate removal proceedings. See *Matter of Acosta Hidalgo*, 24 I&N Dec. 103 (BIA 2007); *Matter of Cruz*, 15 I&N Dec. 236 (BIA 1975). The prior standard was almost impossible to meet, and cases were almost

never terminated for naturalization.

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