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Immigration News – January 2003

The National Security Entry-Exit Registration System – Update **(a.k.a. Special Registration)**

The December 2002 issue of *Immigration News* explained the National Security Entry-Exit Registration System, which is part of the effort by the United States to address issues of homeland security. This issue of *Immigration News* again explains the National Security Entry-Exit Registration System and the current updates to the Special Registration Program.

Background – What is the Special Registration Program?

The National Security Entry-Exit Registration System (also known as the Special Registration Program, or Special Registration) currently requires male citizens and nationals age sixteen (16) and older from designated countries who are not U.S. citizens or lawful Permanent Residents in the United States and who will be in the United States temporarily, including nonimmigrants working or studying in the United States and applicants for Permanent Resident status, to register with the U.S. Immigration and Naturalization Service (INS).

The Special Registration Program requires that such individuals be photographed, fingerprinted and interrogated by the INS. As part of the interview process, an individual will need to document his reason(s) for being present in the United States or reason(s) for coming to the United States. Under the Special Registration Program, after being registered such individuals must notify the INS of any departure from the United States, and such departure may only be made from designated points (such as an International Airport or designated land border). Each entry to the United States will also require a subsequent Special Registration. The Special Registration must also be renewed annually, unless the individual obtains status as a Lawful Permanent Resident or U.S. citizen and any change in address must be updated within ten (10) days.

Who must Register?

Persons currently in the United States: Generally speaking, any male age sixteen (16) and older who is a national or citizen of a designated country and who is already present in the United States in a nonimmigrant status (even if that status expired) and who intends to remain in the United States for thirty (30) days or longer must visit a local INS Office to be registered. Please note that males who entered the United States using an Advance Parole (were paroled in) or who entered without inspection may be exempted from the Special Registration requirement.

Persons who will be arriving and applying to enter the United States: Generally speaking, any male age sixteen (16) and older who is a national or citizen of a designated country who hereafter is applying to enter the United States must comply with the National Security Entry-Exit Registration System (Special Registration Program). The U.S. Department of State through American Consular Offices and Embassies can also designate individuals (nonimmigrants) to participate in the Special Registration Program. The INS at ports-

of-entry may also require any non-U.S. person (including females and persons who are citizens or nationals from countries not already designated as part of the Special Registration Program) to be registered. Please note that a foreign national who holds a visa from one of the designated countries or who has visited one of the designated countries may also be asked to comply with the Special Registration Program.

A national of a designated country is someone who was born in that country or someone having permanent allegiance to that country. If the individual has dual citizenship with one of the countries listed, Registration is required. The countries designated thus far include:

Group I: Iran, Iraq, Libya, Sudan, and Syria.

Group II: Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, United Arab Emirates, and Yemen.

Group III: Pakistan and Saudi Arabia.

Group IV: Bangladesh, Egypt, Indonesia, Jordan, and Kuwait.

Please see the enclosed Summary Chart detailing who qualifies for Special Registration. Congress has mandated that a full National Security Entry-Exit Registration System be implemented by 2005; and this appears to be the initial trial run. It is foreseeable that additional countries will be designated.

Who is not required to Register at this time?

- Females (unless so requested by the INS when entering the United States).
- Males under age sixteen (16) (unless so requested by the INS when entering the United States).
- U.S. Citizens (even if naturalized from a designated country).
- U.S. Permanent Residents (even if a citizen or national from a designated country).
- Some Asylum Applicants and Asylees or Refugees.
- Parolees -- persons who were paroled or who used an Advance Parole (Form I-512) when last entering the United States (unless so requested by the INS when entering the United States).
- Diplomatic visa holders -- males in the United States on an "A" or "G" nonimmigrant visa.
- Persons who entered without inspection (those who did not meet with an INS Official when entering the United States). Yes, in reality this means that a person who entered the United States by illegally crossing the border (running, swimming, hiding in a vehicle, etc.) is not required to Register as the individual is technically "not in the United States."

In very limited instances, a waiver of the Special Registration requirement can be requested. A possible waiver applicant could be a Special Registrant who lives in Canada or Mexico and who commutes to the United States daily for legal employment purposes, as a request to avoid being registered by the INS each day.

Where is the Registration completed?

Persons currently in the United States: For persons currently physically present in the United States, Registration is completed at a local INS Office. To locate the appropriate INS Office and the hours of operation for Special Registration, please visit the INS website at www.ins.usdoj.gov or contact my office.

Persons who will be arriving and applying to enter the United States: For persons arriving in the United States, the Registration is occurring at the port-of-entry, be it at the INS Office at the airport or the INS Office at the land border.

What does Registration entail?

The National Security Entry-Exit Registration System (Special Registration) consists of three components:

(i) interview and photographing and fingerprinting; (ii) periodic (annual) Registration and address updates; and (iii) exit controls.

The First Component -- Interview, Photographing, Fingerprinting

The INS Officer will photograph, fingerprint and question the individual under oath, either at the local INS Office or when the individual is entering the United States. The fingerprinting triggers a background check in several national and international databases. A digital photograph is taken so that it can be scanned in national and international databases and posted as deemed necessary. The interview will require the individual to provide basic identification information (name, address, telephone number, other contact numbers) as well as respond to INS questions regarding why you are in the United States, information about your home (the designated country), and your immigration status. All statements made must be truthful, and it is helpful to listen carefully to the question asked and to respond specifically only to that question asked. Documentation supporting the reason(s) for being in the United States must also be available, as discussed below.

The Second Component -- Periodic (Annual) Registration and Address Updates

Any person who is registered will be issued a Form I-94 *Departure Record* with a Registration number and an expiration date. The Registration is an annual event, until suspended by the INS.

Also: if after the Registration, the individual changes his residential address (or has an address that is different from the one provided to the INS), the individual must file an *Alien's Change of Address Form* (Form AR-11SR) with the INS. Filing a change of address notification with the local U.S. Post Office is not sufficient. To maintain your immigration status, the INS must receive an official change of address form within 10 days of the address change. The appropriate Form AR-11SR, which contains instructions for the filing of the form with the INS, can be obtained either by downloading the form from the INS website at www.ins.usdoj.gov or by requesting a copy from my office.

The Third Component – Exit Controls

Once registered, the INS Officer should provide the individual with a list of Designated Ports-of-Departure. A Registered individual can only depart the United States from a designated location, and you are required to see an INS Officer to notify the INS of your departure. At the time of departure, the INS Officer will take the Form I-94 from you. Most major international airports having an INS Office are designated ports-of-departure. Please note that Chicago O'Hare International Airport has been designated but Midway Airport has not been designated. Only specific land borders have been designated; for instance, the Detroit-Canada Tunnel has been designated but not the Ambassador Bridge or the Blue Water Bridge. For locations and designated Ports-of-Departure, please visit the INS website at www.ins.usdoj.gov or contact my office.

What documents should I have with me for the Registration processing?

Please note that persons arriving at a U.S. border/port-of-entry and applying for entry to the United States are legally not admitted to the United States until the INS permits the entry and issues the appropriate immigration document. Thus, for persons seeking to be admitted to the United States, the protections as stated in the U.S. Constitution from searches and seizures and the right to legal counsel do not apply.

You should also have your immigration documents (passport, visa, Form I-94, Form I-797 *Notice of Action* approving any immigration petition, Form I-20, Form IAP-66, fee receipt for any pending petition or application). You will also need documentation to establish your presence in the United States including: proof of residence and presence in the United States (copy of a deed to property owned, a residential lease, Driver's License or State ID); proof of employment (pay stubs or employer letter); proof of education (school enrollment papers, diploma, transcript); proof of financial assets (including all credit cards, bank statements, U.S. Income Tax Returns); contact information (name, address, telephone number, other contact numbers). Please be prepared to explain why you are in the United States, and be able to provide information about your home (the designated country). All statements made must be truthful, and it is helpful to listen carefully to the question asked and to respond specifically only to that question asked. You may wish to have an attorney accompany you to the INS Office for the Registration processing.

What are the penalties if I do not Register or Register late?

- Criminal penalties including a fine (\$1,000.00).
- Arrest and detention (incarceration/jail) by the INS.
- Possible removal from the United States (commencement of deportation/removal proceedings).
- Ineligibility to return to the United States if failing to initially register or failure to comply with the departure procedures and/or requirements for notification of address change.

What concerns should I have if I am required to Register?

If you are not in the United States legally or if after you entered the United States you overstayed (Form I-94 is expired), you worked without authorization (worked for a different employer than stated on the *INS Notice of Action* or without an Employment Authorization Document), you did not maintain a full course of study or attend the approved educational institution as a student (F-1, M-1 or J-1), or you have a criminal record, the INS can take the position that you are in violation of your immigration status and detain/incarcerate you and/or commence the process to remove you from the United States (deportation/removal). Such actions by the INS are possible even if you have an application pending with the INS for the change or extension of your nonimmigrant status or if you are applying for Permanent Resident status.

If you are subject to the Special Registration Program, you may wish to speak with legal counsel prior to going to the INS Office to Register or have an attorney present with you during the Registration process.

Immigration News is prepared by Julie T. Emerick, Attorney at Law, as a source of information. It is not to be construed as legal advice, nor is it a solicitation for legal services. This issue of *Immigration News* is being sent as a mass mailing, and thus some individuals who are currently not required to participate in the National Security Entry-Exit Registration System may receive a copy. Please share this information and feel free to contact the Firm with any questions you may have.

Immigration News – January 2003

The National Security Entry-Exit Registration System (a.k.a. Special Registration)

Who must Register at an INS Office if in the USA already?	When to Register?	Where to Register?
Males born on or before November 15, 1986 who are nationals or citizens of <i>Iran, Iraq, Syria, Libya, Sudan</i> who entered the United States before September 10, 2002 and are still here.	Originally by December 16, 2002. Extension period between January 27, 2003 and February 7, 2003.	At your local INS office (Request Special Registration Officer); or if subsequently entering the United States with an INS Officer at a U.S. Border/International Airport.
Males born on or before December 2, 1986 who are nationals or citizens of <i>Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, United Arab Emirates, Yemen</i> who entered the United States before September 30, 2002 and are still here.	Originally by January 10, 2003. Extension period between January 27, 2003 and February 7, 2003.	At your local INS office (Request Special Registration Officer); or if subsequently entering the United States with an INS Officer at a U.S. Border/International Airport.
Males born on or before December 16, 1986 who are nationals or citizens of <i>Pakistan, Saudi Arabia</i> who entered the United States before September 30, 2002 and are still here and intend to remain in the USA after February 21, 2003.	Between January 13, 2003 and February 21, 2003.	At your local INS office (Request Special Registration Officer); or if subsequently entering the United States with an INS Officer at a U.S. Border/International Airport.
Males born on or before February 27, 1987 who are nationals or citizens of <i>Bangladesh, Egypt, Indonesia, Jordan, Kuwait</i> who entered the United States before September 30, 2002 and are still here and intend to remain in the USA after March 28, 2003.	Between February 24, 2003 and March 28, 2003.	At your local INS office (Request Special Registration Officer); or if subsequently entering the United States with an INS Officer at a U.S. Border/International Airport.

Please note that other individuals may be required to register such as:

- Any male age sixteen (16) and older who is a national or citizen of a designated country who hereafter is applying to enter the United States.
- Persons designated by the U.S. Department of State through American Consular Offices and Embassies.
- Any non-U.S. person who is applying for entry to the United States may be required to register by the INS at a port-of-entry (airport or land border). This can include a foreign national who holds a visa from one of the designated countries or who has visited one of the designated countries.