National Security Entry/Exit Registration System Special Registration Program Suspended

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In the INS Data Management and Improvement Act of 2000, Congress mandated the implementation of a comprehensive entry/exit program capable of tracking the presence of foreign nationals in the United States by 2005. As an emergency and interim step toward this mandate, on September 11, 2002, the U.S. Department of Homeland Security began the implementation, in phases, of the National Security Entry/Exit Registration System (NSEERS) at U.S. ports of entry. Subsequently, starting on November 6, 2002, the DHS implemented additional phases of the program by requiring "call in" registration of certain foreign nationals already present in the United States when port-of-entry registration began. NSEERS required not only initial registration but follow-up appearances after 30 days and yearly, in-person compliance interviews.

Special Registration Has Been Amended

On December 2, 2003, the Department of Homeland Security (DHS) published amended regulations suspending the requirement that certain foreign nationals appear in person pursuant to NSEERS port-of-entry and "call-in" registration continuing compliance requirements. Although the period of annual re-registration for individuals registered under the "call-in" registration component of NSEERS was initiated as originally planned in November 2003, the new DHS amended regulation suspends the requirement that individuals registered pursuant to "call in" registration appear in person for their annual compliance interviews. The amended regulation also suspends the *automatic* requirement of an in-person appearance at a Local DHS District Office 30 days after entry as well as the *automatic* annual registration for those individuals registered at the port of entry. Instead, individuals registered upon entry will be given notice that they may, in the future, be required to appear in person to provide additional information within ten days of such a DHS request.

Many Registration Requirements Survive the Amendment

The suspension and amendments are expected to benefit more than 82,000 registrants who, without this relief, would otherwise have to appear for the annual compliance interview in the coming weeks. While the amended regulations greatly reduce the burden on many registrants, it is important to understand what the amended regulations *do not* do. There has already been inconsistent and imprecise reporting by various media outlets which do not emphasize the aspects of the program which remain unaffected by the amended regulations. Therefore it is imperative that registrants be informed that the amended regulations *do not* abolish the port-of-entry special registration program or the requirement of departure registration. Additionally, it is important to understand that the amended regulations *do not* excuse any prior failure to comply with previous special registration requirements.

U.S. VISIT

The DHS has determined that suspension of certain requirements of the program is possible given the upcoming implementation of the U.S. VISIT (United States Visitor and Immigrant Status Indicator Technology) program for tracking foreign nationals in the United States. U.S. VISIT is a comprehensive entry-exit data collection and management system which will apply to all foreign nationals required to have a U.S. visa for travel. Citizens of Canada, Japan, many European countries, and other Visa Waiver Countries are exempt from this new screening process when they are traveling under the Visa Waiver Program as visitors. However, if individuals from these Visa Waiver Program countries require a visa to enter for other than business visits or leisure travel, it currently appears that they will be required to undergo the U.S. VISIT entry and exit procedures.

The U.S. VISIT system is designed to capture biometric identifiers upon a foreign national's entry which can be matched against biometric identifiers captured upon his or her exit. As usual, when entering the United States, a non-citizen will be inspected by a Customs & Border Protection (CBP) inspector who will examine the individual's documents and ask the visitor questions regarding the nature and length of his or her visit to the United States. The CBP inspector will digitally capture the foreign national's photograph and fingerprints, which will become part of the non-citizen's permanent immigration record. The capture of biometric identifiers upon entry was scheduled for implementation at most major airports and seaports by December 31, 2003. Starting in 2004, the new requirement that non-citizens be photographed and digitally fingerprinted upon entry into the U.S. may, or may not, cause significant delays for all travelers by quadrupling the time that foreign nationals spend interacting with an Immigration Inspector. Currently, there are no publicly announced plans for additional Immigration Inspectors to address these potentially more time-consuming requirements.

Data Collection Becoming More Comprehensive Every Month?

Under U.S. VISIT, foreign nationals will also be required to "self-register" their departures. Exit procedures under the U.S. VISIT program are scheduled for implementation in phases at airports and seaports, with all major airports and seaports equipped for U.S. VISIT "check out" with self-serve kiosks early in 2004. Border posts are slated to be equipped for U.S. VISIT "check out" by December 31, 2005. This system, when fully implemented, will create and maintain permanent immigration records capturing a non-citizen's immigration history, including short overstays, which could adversely impact the adjudication of future applications for visas or other immigration benefits.   The system is being implemented in stages, and initially information may be inconsistent. However, significant progress in government recordkeeping is already evident, and over the upcoming years the system should become quite comprehensive. The U.S. VISIT system should enable the DHS to identify even inadvertent violations of status more easily and to record almost all contact with the U.S. government. Processes are being designed whereby this information can be accessed by almost any interested government official and can be compared at a later time for inconsistencies. Therefore, all non-citizens must be careful to fully and completely comply with all entry and exit procedures and requirements and to avoid inadvertent violations of status which could permanently and adversely affect their U.S. immigration records.

For further information on the government's immigration tracking systems you may wish to visit http://www.tindallfoster.com/resources_imm.html and click on either "Immigration in the News" or "Bulletins".