

American Immigration Lawyers Association (AILA) ACLU Immigrants' Rights Project

IMPORTANT ADVISORY

Special Registration Has NOT Ended – Many Requirements Continue

The reports that Special Registration has “ended” are NOT correct. The ONLY significant change in Special Registration that the Department of Homeland Security (DHS) announced at the beginning of December, 2003 is that it is “suspending” the requirement of (1) annual re-registration applicable to all registrants and (2) 30/40-day follow-up interviews applicable to port-of-entry registrants. *All* other requirements and the Special Registration program itself are NOT changed and remain in effect. Anyone who does not comply with all the continuing requirements of Special Registration could be subjected to denial of admission to the U.S., denial of immigration benefits, possible criminal prosecution, and/or removal proceedings.

What Did DHS's New Interim Rule for Special Registration Do?

The ONLY major changes in Special Registration requirements are the following:

- The annual re-registration requirement is suspended for all Special Registrants, i.e., for both those who registered under the “Call-In” and those who were registered at a port-of-entry (POE).
- The 30/40-day follow-up interview requirement (applicable only to POE Registrants) is also suspended.

The new rule applies ONLY to registrants whose re-registration deadline or 30/40-day deadline is on or after December 2, 2003. Anyone who willfully missed a deadline before that date is still considered to have violated Special Registration. All other requirements for Special Registrants remain in effect.

Are Special Registrants Still Subject to Other Requirements?

YES. All Special Registrants continue to be subject to the following requirements.

- **Departure Registration.** Every person who was specially registered at *either* Call-In *or* POE continues to be subject to “departure registration.” This has NOT changed. Special Registrants must (1) depart only from specially designated ports and (2) comply with special departure processing, which involves an appearance before a Customs and Border Protection (CBP) officer. Turning in the I-94 or being processed by airline personnel does NOT satisfy this requirement. Processes for having this requirement waived were added by the interim rule, but the standards for the waivers are quite high.
- **Reporting Changes of Address, Employment, or Educational Institution.** Persons who were or are registered and who remain in the U.S. for 30 days or more must notify DHS of any change of address/residence, employment, or educational institution within 10 days of the change. The notification must be in writing on the form, AR-11, designated for reporting these changes. The form is available at www.uscis.gov. The new rule provides that F, J or M nonimmigrants entered into the SEVIS system no longer have to comply with this requirement if the change of address/residence or educational institution is reported through SEVIS within 10 days of such change. This exception does NOT apply to changes of employment.

Does the Rule Affect Past or Existing Violations of Special Registration?

NO. The new Federal Register announcement specifically states that the new rule does not excuse past failure to comply with the Call-In deadlines or the 30-40 day follow-up interview or annual re-registration deadlines. In addition, the new rule does nothing for the thousands of people who were placed in removal proceedings when they appeared for Call-In.

Are Nonimmigrants Entering the Country Still Subject to Special Registration?

YES. Port-of-Entry (POE) Registration continues. Nonimmigrants who are citizens or nationals of Iraq, Iran, Syria, Libya and Sudan will be subject to Special Registration upon entry to the United States. Others can be designated for Special Registration on a case-by-case basis.

What is the Effect of USVISIT on Special Registration?

It is unclear when, if or how the upcoming USVISIT program will affect Special Registration and whether Special Registration will be subsumed into USVISIT. People who were registered under Special Registration continue to be governed by the Special Registration rules and must comply with those requirements. Further announcements about USVISIT are likely and may clarify the relationship between Special Registration and USVISIT.

Could Re-Registration Still Be Required for Some Special Registrants?

YES. The interim rule says that DHS can require selected individuals to re-register at any time, with notice of only 10 days. The interim rule provides that notice of the re-registration requirement may be given by any means, including regular mail, e-mail or publication of a notice in the Federal Register. It is very important for anyone who has ever been registered under Special Registration to be vigilant and watch for information about such a requirement.

The interim rule also says that DHS can announce another Call-In Registration at any time.

Can There Be Further Changes in Special Registration?

YES. The interim rule was published on December 2, 2003, at 68 FR 67578. It goes into effect immediately but is subject to a 60-day public comment period. After that, the DHS could publish a final rule or leave the current interim rule in place. A final rule could include further changes. In addition, DHS may issue new rules and regulations at any time.