

Who Is Affected by This Rule?

Aliens who have been subject to NSEERS registration, whether as a result of being registered at a POE upon arrival, or as a result of being called in to register by **Federal Register** notice, are affected by the rule, because it reduces their current reporting requirements by eliminating the mandatory 30-day and annual re-registration interviews. Additionally, aliens who hereafter enter the United States and are NSEERS registered at a POE are affected by this rule. Affected aliens have been or will be given a Form I-94 documenting their registration, which will reflect their Fingerprint Identification Number (FIN). DHS uses the FIN recorded on the Form I-94 to identify the records of an alien subject to special registration. Based upon the number of aliens who have previously registered, DHS estimates that over the 6 month time span from December 2003 through May 2004, approximately 82,532 aliens will benefit from this change and will not have to report for either a 30-day or annual re-interview during that period.

How Does This Rule Affect Registration at POEs?

This rule does not affect the procedures for the NSEERS registration of aliens, including fingerprinting, photographing, and provision of information, at POEs. As is obligatory under current regulations, nonimmigrant aliens subject to POE registration will still be required, utilizing the information collection system in place, to provide routine and readily available information as a condition of admission. This includes such information as is necessary to identify the alien in the United States. Lists of information that may be required during NSEERS registration have previously been issued. See, e.g., 67 FR 40581, 40582.

Registration at POEs continues to allow DHS to determine if an alien's fingerprints match those of known terrorists or criminals, and to detain for removal or refuse admission of the alien if such an identity match is established.

How Will DHS Provide Notice to Individual Aliens That They Must Appear for an Additional Registration Interview?

In place of the automatic re-registration requirements set out in the original NSEERS registration provisions, this rule substitutes a more tailored approach to re-registration. The determination of whether an alien will be subject to additional registration

requirements will be made on a case-by-case basis. The admission of any nonimmigrant alien subject to NSEERS registration is subject to the requirement that, under this rule, he or she may be required to appear for future continuing re-registration interviews at the discretion of DHS. At the time of admission, DHS will advise all nonimmigrant aliens subject to special registration that they may be required to appear for additional registration interviews upon notice. DHS will separately notify those aliens selected to appear before DHS to comply with the additional re-registration requirements, which for a small number of aliens may be more frequent than the 30-day and annual re-registration requirements set out in the prior rule. However, only aliens who are notified of the re-registration requirements will have to appear before DHS for such requirement, and the majority of individuals registered will see a reduction in the burden of additional registration as a result of this rule. Notification under these regulations may be given to the alien in a manner reasonably calculated to reach the alien, which shall include, but is not limited to, notice by publication in the **Federal Register**, a letter sent via standard U.S. postal mail to the last address provided by the alien to DHS using regular mail, an e-mail to the address the alien provided to DHS during a previous NSEERS registration interview, or in-person delivery. The nonimmigrant alien must appear at the designated U.S. Immigration and Customs Enforcement office location, and on the specified date and time, unless otherwise specified in the notice. DHS will provide the alien at least ten days, measured from the date DHS publishes or sends notice to the alien, to comply with the re-registration obligation.

Notice to an alien of registration or re-registration requirements may be issued by the ICE Assistant Secretary, his designee, or any other such individual designated by the Secretary of DHS.

How Does This Rule Affect an Alien's Obligation To Notify DHS of a Change of Address or Employment?

This rule reiterates, for this distinct group of nonimmigrant aliens who are subject to NSEERS registration, and who remain in the United States for more than thirty days, the requirement that the nonimmigrant alien notify DHS of any change of address, employment and/or educational institution within 10 days of such change. Affected aliens may notify DHS by mail, or such other means as the Secretary of DHS may designate, of a change of address. The

required form, the AR-11 for Special Registration, is available at DHS offices and on the DHS Internet Web site at <http://www.uscis.gov>, in the special registration section.

However, this rule discontinues the requirement that student aliens monitored under SEVIS who are subject to special registration separately notify DHS of a change in their educational institution or address, if such information is provided to DHS through SEVIS. This rule provides that when an alien reports a change of address or educational institution to DHS through SEVIS, that action fulfills his or her special registration requirement to notify DHS of changes in address. However, student aliens who are monitored under SEVIS who are subject to special registration will still be required under 8 CFR 264.1(f)(5) to notify DHS of any change of employment which is currently not captured in the SEVIS system.

How Does This Rule Affect Departure Control Requirements?

This rule does not change the general requirement that a nonimmigrant alien subject to NSEERS registration, either POE registration or a prior or future call-in registration, also report his or her actual departure from the United States. Cessation of departure controls is inconsistent with the congressional mandate requiring that DHS establish a comprehensive entry-exit monitoring system. As DHS develops the larger system mandated by Congress, to be called US-VISIT, it will integrate the NSEERS registration currently in use. This requirement of departure registration means that the alien must appear at a designated Port of Departure before a departure control officer, i.e., a CBP inspector, on the day he or she departs the United States to close his or her registration and also depart from that port. This departure requirement will ensure that all NSEERS registrations are properly closed.

If the departure control requirements do not continue, registration records for the nonimmigrant aliens subject to NSEERS registration would be left open without explanation. This could result in serious difficulties, including the possibility of future inadmissibility, for already registered aliens who depart and attempt to return to the United States.

The most recent **Federal Register** notice listing Ports of Departure can be found at 68 FR 8967. This rule does not alter or amend that list.

This rule does clarify that certain alien crewmen described at 101(a) (15) (D) of the Act who are subject to special registration requirements are exempt