

COUNSEL

January 2004

A publication of Paschal Nwokocha Law Offices, LLC.

In this Issue...

Happy New Year!!!

- ◆ Immigration News
- ◆ Deportation/Removal Proceedings (*contd.*)
- ◆ Speical Registratopm Modified
- ◆ First Phase of US VISIS BEGINS
- ◆ F.Y.I.
- ◆ Did you know?..

About Counsel

A newsletter publication of Paschal Nwokocha Law Offices, LLC, Counsel is dedicated to the needs and interests of our clients and subscribers.

Each issue of Counsel explores specific areas of immigration law, which may be of personal or business interest to its readers.

Counsel does not constitute legal advice. Readers are urged to consult an attorney before acting on any information contained in this publication.

Our Mission

At Paschal Nwokocha Law Offices, our mission is to provide the highest quality professional, client-driven legal services to businesses and individuals at reasonable rates.

We believe the Immigration and Nationality laws of the United States should work for our clients, *not* against them. And we employ all available tools to seek the best possible solutions on their behalf.

Immigration News

Immigration Service has implemented a new program that requires most applications to be mailed in to the local Citizenship and Immigration Service Office. For instance, most marriage petitions must be mailed in, and then the local CIS will forward the petition to the National Benefit Center, where it is entered in their system and then returned to the local office for further processing. This will result in significant delay in processing of petitions.

If you have any petition pending with the Immigration Service, you should consult with a knowledgeable immigration attorney before you travel overseas. Otherwise, you may have difficulty re-entering the country.

Deportation/Removal Proceedings (*contd.*)

In the last two editions of Counsel, we discussed the importance of having an experienced immigration attorney by one's side when faced with any immigration matter. We also identified some of the relief one may seek in a removal proceeding. In this edition, we shall discuss three Suspension of Deportation; Adjustment of Status; and Asylum and Withholding of Deportation.

§ *Suspension of Deportation*

Any expulsion proceedings commenced on or after April 1, 1997 are removal proceedings rather than deportation or exclusion proceedings. However, persons who were placed in deportation proceedings prior to April 1, 1997 as well as NACARA applicants may still be eligible for suspension of deportation. A deportable alien may apply for

permanent residence through suspension of deportation if he is able to fulfill the following 3 conditions:

1. He must have been continuously physically present in the U.S. for at least seven years. Absences which are "brief, casual and innocent" do not interrupt the continuity of the alien's physical presence.
2. He must be a person of good moral character.
3. It must be an extreme hardship upon the alien, or his spouse, children or parents who are citizens or residents of the United States if he were forced to leave the country.

§ *Adjustment of Status*

A deportable alien who is the parent, spouse, widow or child of a U.S. citizen may be eligible to apply to the Judge to adjust his status to that of a lawful permanent resident. Also qualified to apply for adjustment of status are many aliens whose priority dates for permanent residence are "current".

Aliens who obtained conditional permanent residence based upon their marriage, or the marriage of their alien parent, to a U.S. citizen may have their legal status terminated by the INS if they fail to meet certain requirements. However, once INS places them under deportation proceedings, they may renew their applications for permanent residence before an Immigration Judge.

§ Asylum and Withholding of Deportation.

Those who have a well-founded fear of persecution if they return to their home country may apply for [asylum](#) if their fear is based on any of the

following grounds:

1. Political opinion
2. Religious belief
3. Nationality
4. Race
5. Membership in a particular social group

If a person is granted asylum, after one year they may apply for permanent resident status.



Special Registration Modified—Many Requirements Continue

Special Registration requirements under the National Security Entry-Exit Registration System (NSEERS) have changed. As background, under NSEERS, specified groups of foreigners have been required to be photographed, fingerprinted, and interrogated upon their arrival at a U.S. port of entry and, for those already in this country, at a designated immigration office. Under the program, these individuals (most of them males from Middle Eastern countries) also have been obligated to follow re-registration requirements after one year, or, in some cases, thirty days.

The recently announced changes include the following: (1) suspension of annual re-registration for all special registrants; (2) suspension of the 30/40-day follow-up interview requirement applicable to individuals who registered for NSEERS at a port of entry.

The changes apply 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.

In place of the former blanket re-registration rule, DHS can require selected individuals to re-register at any time, with notice of only 10 days. 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.

Employers and Human Resource personnel should note that individuals who were required to register under NSEERS still continue to be subject to strict rules. Every person who was specially registered continues to be subject to "departure registration." 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. If employees subject to NSEERS special registration must travel for business, it is critical that their travel plans route the individuals through a designated port of departure.

In addition to the departure requirements, registration at the ports of entry and notification requirement still continue. 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. **Special registrants are still required to report to DHS any changes of address, employment, or educational institution.** Such notice must occur within 10 days of the change, and must be written on a special form.

If Human Resource personnel or employees have any questions about the special registration

program, including how to register, how to depart properly from the United States, and whether a registration waiver is an option, please contact your AILA attorney. Additionally, AILA attorneys can provide your business with further materials and information about contacting your members of Congress to express your concerns about this program.



First Phase of US VISIT Begins

January 5th On January 5th, the first phase of the United States Visitor and Immigrant Status Indicator Technology program (US VISIT)—the new automated entry/exit system—is scheduled to be operational at 115 airports across the country and 14 seaports. The overall plan of US VISIT calls for the collection of personal data, photos, fingerprints at U.S. consular offices abroad, as well as broad database- and information-sharing. Expansion of the program at airports and seaports is expected to continue throughout 2004. Unless Congress acts to delay the implementation deadlines, DHS will be required by law to expand the entry/exit program to the top 50 high traffic land border ports by December 31, 2004, and to the remaining ports of entry by December 31, 2005. According to DHS, US VISIT will apply only to nonimmigrant visa holders. Green Card holders and U.S. citizens are exempt. Under current law and regulations,

Canadians not required to have a visa upon entering the United States and foreign nationals entering the United States pursuant to a Visa Waiver will not be included in US VISIT. Conversely, Canadians entering the U.S. in a status requiring a visa will be required to enroll in US VISIT, as will citizens of a visa waiver country entering the U.S. in a status requiring a visa. US VISIT will be implemented in

phases at our nations ports. During the first implementation phase of US VISIT, visa holders will be enrolled in US VISIT only if they enter the United States through an air or seaport that has US VISIT capability. At the port of entry, the individual's travel documents will be scanned and a digital photo and inkless fingerprints of both index fingers will be taken and checked against the databases and watch lists. Information will be collected on immigration and citizenship status, nationality, country of residence, and the person's address while in the United States. Only about 30 airports, as well as the Miami seaport, will have exit capability as of the January 5 Phase One implementation

date. The exit stations for US VISIT are self-service kiosks that closely resemble automated teller machines (ATMs). DHS has indicated that the kiosks will be located within the secure area of the air and seaports. The agency also has stated that attendants will be assigned to monitor the kiosk area and offer assistance. Visa holders will be required to document their departure from the United States with US VISIT only if they depart the United States through an air or seaport that has US VISIT exit capability.

According to DHS officials, no requirements currently obligate foreign nationals to depart from a port that has US VISIT exit facilities. DHS will consider exit registration mandatory for visa holders who depart from an air or seaport with US VISIT exit capability. Additionally, departure information will be stored in the Arrival and Departure Information System (ADIS). The ADIS database contains arrival/departure, biographic and biometric indicator information on immigrants and nonimmigrants entering and departing the United States, as well biographic arrival/departure information on legal permanent residents. According to DHS, ADIS information is constantly updated, and if a visitor overstays his or her



Did you know?..

- You can check the status of any application you have pending before any of the Service Centers on-line by visiting the USCIS website.
- Criminal conviction of, or a plea of "guilty" to a criminal charge by, a permanent resident (green card holder) could render him/her permanently ineligible for U.S. citizenship, and possibly result ultimately in his/her deportation?

Reader's Corner

Readers are encouraged to send questions and comments to Counsel at Paschal Nwokocha Law Offices. Questions and comments will be addressed in this column in future editions of Counsel.

To subscribe to or unsubscribe from Counsel, or to receive copies of Counsel for your business, please send your request to:

**Paschal Nwokocha
Law Offices, LLC
2469 University Avenue West
St. Paul, MN 55114**

Or call us: 651.917.0020

Visit us on the Web:
www.Paschal-Law.com

Disclaimer

Counsel does not constitute legal advice. Readers are urged to consult an attorney before

Free 24-hour information on immigration law

Topic	Description
1313	Eligibility for Citizenship
1314	Applying for citizenship
1315	Dual Citizenship
1316	About student visas
1317	Maintaining your student visa
1318	About Political Asylum
1319	Applying for political asylum
1322	Employer responsibilities
1323	Labor certification
1324	Labor Certification Process
1325	Work permits
1326	Applying for a green card
1327	Employment-based green cards
1328	Family-based green cards
1329	Marriage-based green cards
1336	Immigration Status Categories
1337	About deportation & exclusion
1338	Deportation Proceedings
1334	Questions to ask about legal issues

Step 1: Dial 763.586.5700

Step 2: Enter the 4-digit code from the table above corresponding to the topic of interest.

If you need legal services relating to immigration or other legal issues and would like to schedule a consultation...

Call us for an appointment

651.917.0020

**Paschal Nwokocha
Law Offices, LLC**

2469 University Avenue West
St. Paul, MN 55114

Visit us on the Web:

www.Paschal-Law.com

651.917.9042 *fax*

Paschal Nwokocha Law Offices, LLC
2469 University Avenue West
St. Paul, MN 55114