

TRAVEL WARNING – SECURITY CHECKS

US-VISIT Program at U.S. Ports

The Department of Homeland Security implemented the US-VISIT Program (“U.S. Visitor and Immigrant Status Indicator Technology”) in January 2004, and will continue to expand the program with plans for it to be operational at all major air, sea, and land ports of entry and ports of exit by December 30, 2005. US-VISIT applies to most nonimmigrants visitors to the U.S. and is an automated entry-exit system using biometric identifiers such as digital photographs and digital, inkless fingerscans. When a visitor arrives through an airport or seaport, he or she is enrolled in US-VISIT as part of the primary inspection process. At the nation’s 50 busiest land ports of entry, those visitors carrying a foreign passport and/or who are required to complete a Form I 94 are enrolled in US-VISIT at the secondary inspection area. (This does not apply to most Canadian citizens or, initially, to Mexican citizens who use their Border Crossing Cards or “laser visas”). US-VISIT is exploring departure confirmation alternatives at airports and seaports. The tests and evaluation will continue in 2005. The exit procedures require visitors to check out at an exit station, which resembles an ATM kiosk, or with a US-VISIT workstation attendant at the departure gate at the port.

US-VISIT rules carry severe penalties for non-compliance, including exclusion from the United States. Penalties for failure to comply are not being as strictly enforced at this point, due to the fact that US VISIT exit procedures are still being tested and the fact that not all ports of entry or exit are equipped with US-VISIT capability. For a list of ports of entry-exit which have US-VISIT capability, refer to our US-VISIT webpage. In addition to US-VISIT, some foreign nationals are subject to special registration, which is a separate program also involving being fingerprinted and photographed, and which is described in more detail below.

NSEERS (National Security Entry Exit Registration System) Special Registration at U.S. Ports

Effective September 2002, nationals or citizens of **Iran, Iraq, Libya, Sudan and Syria** entering the U.S. as nonimmigrants became subject to “special registration” requirements to submit fingerprints and a photo upon admission to and departure from the U.S. (among other obligations). At the discretion of the officer at the port of entry, special registration may also be applied to nationals or citizens of any other country, based on travel patterns or behavior. In addition, nationals or citizens of the following countries who were not registered upon admission and who remained past a certain date were ordered to report to their local INS, then DHS offices for special registration: **Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, UAE and Yemen.** The “call in” special registration program has been terminated.

If a foreign national was subjected to special registration, whether at the port of entry, or through “call in,” s/he must continue to special register at designated ports of exit upon departure from the U.S. The special registration rules carry severe penalties for non-compliance, including denial of change or extension of status petitions, and removal or exclusion from the United States. For more information refer to our website’s “[special registration](#)” page.

Visa Stamp Appointments

Nonimmigrants traveling internationally require a valid visa stamp to return to the United States (unless they are visa-exempt Canadian citizens). Department of State (DOS) regulations regarding nonimmigrant visa applications were changed in May 2003 to require in-person interviews of virtually all visa applicants in an effort to increase homeland security. Prior to these changes, consular officers, especially at lower risk posts, could waive the interview requirement for nonimmigrant visa applicants. In addition, consular officers must collect biometrics (typically fingerprints and a digital photo) and run security checks on applicants prior to visa issuance.

As nonimmigrants are interviewed prior to receiving visas and security checks must be completed, visa application processing times have increased. Refer to the DOS visa wait times [webpage](#) for information on the typical wait time to make an appointment, and the typical wait time after having been interviewed. Wait times vary depending on the season and are updated regularly. If an applicant is selected for a security check, wait time will exceed the typical wait time stated on the DOS website.

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Interview waivers are possible under limited circumstances. Interview waivers can, in general, be waived by a consular officer only for a person who the consular officer concludes presents no national security concerns, and who:

1. Is a child 16 years of age or under;
2. Is a person 60 years of age or older;
3. Is within a class of nonimmigrants classifiable under the visa symbols A-1, A-2, C-2, C-3, G-1, G-2, G-3, G-4, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, or NATO-6 and who is seeking a visa in such classification;
4. Is an applicant for a diplomatic or official visa;
5. Is an applicant who within twelve months of the expiration of the previously issued visa, is seeking re-issuance of a visa in the same classification, at the consular post of his/her usual residence, and for whom the consular officer has no indication of visa ineligibility or noncompliance with U.S. immigration laws and regulations; or
6. Is a person for whom a waiver of personal appearance is warranted in the national interest or because of unusual circumstances.

The regulation also permits the DOS to require an interview notwithstanding these waiver provisions. Furthermore, personal appearance is required in all cases where an applicant meets one of the following criteria:

1. Does not reside in the consular district where s/he is making application;
2. Was previously refused a visa (unless the refusal was overcome);
3. Is the subject of a CLASS "hit," or requires a security advisory opinion or other DOS clearance; (exceptions can be made for A and G visas); and
4. Is identified by the consular post as belonging to a group or sector of its visa applicants representing a high fraud risk, high refusal rate, or a security threat.

Due to unpredictability in appointment and security check processing times, you should expect delays in visa applications at consular posts. This is especially the case during high travel seasons, and around the new fiscal year (October 1st of each year) when individuals with approved H-1B visa petitions are applying for initial H-1B visas to enter the U.S..

Any nonimmigrant with international travel which will necessitate applying for a new visa at a U.S. embassy or consulate needs to be aware of the potential delays and be prepared to remain outside the U.S. for a protracted period of time, which could potentially extend to months.

Security Checks Involved in Applying for a Visa Stamp

General Rule: All nonimmigrants are subject to CLASS (Consular Lookout and Support System) and IBIS (Interagency Border Inspection System) security checks. There are no exceptions. These security checks can result in significant visa processing delays. Any visa applicant may be subject to additional security checks, although nationals of certain countries are more likely to be subject to security checks than others, and in particular nationals of China, India, Russia, and Iran. Applying at consulates outside the foreign national's home country neither increase nor decrease the risk of such security checks.

Unofficial List of 26 Countries: Foreign nationals born in, citizens of, or even residents of certain countries are subject to lengthier security checks which may take weeks to months to complete. DOS has indicated that this is an unofficial list and may change at any time. The list currently includes the following countries:

Afghanistan, Algeria, Bahrain, Bangladesh, Djibouti, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

Technology Alert List (TAL): Foreign nationals who are working in an area considered to be included in a "critical fields list" raising technology transfer concerns, including those subject to export controls, may be subject to additional visa application delays or denials at U.S. embassies/consulates. If a Consular or DOS officer believes that a visa applicant is working in a critical TAL field, the officer must request an advisory opinion from the Visa Office, a process which may take several months to complete. Refer to the following website for the TAL fields: <http://www.jackson-hertogs.com/misc/TALMantis.pdf>, or for a complete "critical fields" list as included in the latest available DOS TAL guidance, see <http://travel.state.gov/state147566.html>. Please note that both lists are dated from several years ago and more recent lists have become "classified."

Traveling to Canada or Mexico for Third Country Nationals

General Rule: Foreign nationals who are not citizens of Canada or Mexico can travel to these countries and reenter the U.S. within 30 days or less with a valid I-94 and visa stamp (even if it is expired or has a different classification than what is listed on the Form I-94). This is called "automatic revalidation." Note: This regulatory exception to the general visa requirement is

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discretionary. Please review the [FAQs](#) and [Memo](#) on our website regarding Automatic Revalidation. Please check with the Mexican/Canadian authorities to ascertain visa requirements to enter these countries.

Exception: Foreign nationals **cannot** use this rule if they have applied for a U.S. visa at a U.S. embassy/consulate in Canada or Mexico. When a foreign national applies for a visa, and the passport is returned but the visa stamp is not issued, the consular officer stamps the passport with a notation “application received”, making the Form I-94 invalid for reentry. If the U.S. embassy/consulate in Canada or Mexico does not issue the visa, the foreign national will need to apply for a visa at the U.S. embassy/consulate in his/her home country.

7 Country Exception: Nationals or citizens of countries designated as “state sponsors of terrorism”, which are currently designated by the U.S. as being Iraq, Iran, Syria, Libya, Sudan, North Korea and Cuba, cannot travel to Canada or Mexico and reenter without a valid visa, even if they reenter within 30 days and even if they do not apply for a visa. In all cases, nationals of these countries must apply for the appropriate visa before reentering the U.S.

Traveling and Applying for a Visa Stamp in Canada or Mexico for Third Country Nationals (TCNs)

General Rule: TCNs can travel to Canada or Mexico to apply for a visa stamp after following the required appointment procedures outlined on our “Travel issues” web page and after securing the proper visa to enter Canada or Mexico.

Exception: Nationals or citizens of countries designated as “state sponsors of terrorism”, as well as other countries, may be refused an appointment and can only apply for a visa at their home country consulate.

Exception: TCNs may be refused a visa on a case-by-case basis or encounter significant delays, in which case they must either wait for completion of processing, or apply for a visa at their home country U.S. consulate.

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