



# DHS Mandates Nationwide Alien Registration Under WWII-Era Law: 5 Things Employers Need to Do

Insights

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Federal immigration officials are about to significantly expand foreign national registration enforcement by requiring certain noncitizens to register with the government, provide biometric data, and carry proof of registration – and employers will need to adjust their practices given this new enforcement push which is expected to impact 3.2 million foreign nationals. Unveiled on March 7 and set to be officially published on March 12, the Department of Homeland Security’s (DHS) Interim Final Rule entitled “Alien Registration Form and Evidence of Registration” is set to take effect on April 11. For employers, this rule will introduce new documentation considerations, verification challenges, and potential workforce disruptions. What are the five things you need to do as a result of this significant change?

## Quick Background on WWII-Era Immigration and Nationality Act

Before analyzing the rule and its impact on employers, it’s important to understand the background. This rule is not a new legislative mandate – it is actually a long-dormant enforcement mechanism under the Immigration and Nationality Act (INA), which traces its origins to the Alien Registration Act of 1940 (also known as the Smith Act). Originally enacted during World War II, the law required all noncitizens to register and be fingerprinted if they remained in the U.S. for more than 30 days.

The INA, which codified these requirements in 1952, mandates that:

- Noncitizens over 14 years old must **register and be fingerprinted** within 30 days of entry.
- All registered noncitizens over 18 years old must **carry proof of registration** at all times.
- Failure to comply can result in **fines up to \$5,000 or six months in jail**.

While these provisions have remained part of U.S. immigration law, enforcement has historically been inconsistent. The new DHS rule revives and strengthens these requirements, particularly for undocumented immigrants, visa overstays, and other unregistered noncitizens. As [DHS announced with their release of the rule](#): “For decades, this law has been ignored – not anymore.”

## What the New DHS Alien Registration Rule Does

Here are the five biggest changes introduced by the new rule.

## ***Introduces a New General Registration Form (Form G-325R)***

DHS has designated Form G-325R (Biographic Information – Registration) as the official registration document for noncitizens who have not previously registered. It is immediately available immediately through myUSCIS online accounts.

## ***Mandates Biometric Collection for Previously Unregistered Noncitizens***

Those completing the form will initiate a mandatory biometrics appointment to be scheduled at a USCIS Application Support Center (ASC), where individuals must submit:

- Fingerprints
- Photographs
- Signatures (for identity verification and background checks)

## ***Who must register?***

Foreign nationals who must register include:

- All foreign nationals 14 years of age or older who were not registered and fingerprinted (if required) when applying for a visa to enter the United States and who remain in the United States for 30 days or longer. They must apply before the expiration of those 30 days.
- The parents and legal guardians must ensure that their children below the age of 14 years of age who have not been registered and remain in the United States for 30 days or longer, are registered prior to the expiration of those 30 days.
- Any foreign national, whether previously registered or not, who turns 14 years old in the United States, within 30 days after their 14th birthday.
- Foreign nationals who are present in the United States without inspection and admission or inspection and parole.
- Canadian visitors who entered the United States at land ports of entry and were not issued evidence of registration.
- Foreign nationals who submitted one or more benefit requests to USCIS not listed in 8 CFR 264.1(a), including applications for Deferred Action for Childhood Arrivals (DACA) or Temporary Protected Status (TPS), who were not issued evidence of registration, such as an employment authorization document.

## ***Who has already registered?***

Foreign nationals who have already registered include:

- Lawful permanent residents.

- Lawful permanent residents;
- Foreign nationals paroled into the United States under INA 212(d)(5), even if the period of parole has expired;
- Foreign nationals admitted to the United States as nonimmigrants who were issued Form I-94 or I-94W (paper or electronic), even if the period of admission has expired;
- All foreign nationals present in the United States who were issued immigrant or nonimmigrant visas prior to arrival;
- Foreign nationals whom DHS has placed into removal proceedings;
- Foreign nationals issued an employment authorization document;
- Foreign nationals who have applied for lawful permanent residence using Forms I-485, I-687, I-691, I-698, I-700, even if the applications were denied; and
- Foreign nationals issued Border Crossing Cards.

### ***Requires Carrying a New Proof of Registration Document***

Upon completing registration, DHS will issue a Proof of Alien Registration document, downloadable from myUSCIS. Noncitizens over 18 must carry this document at all times. Employers can expect to see this as part of I-9 verification processes in the near future – more on this later.

### ***Establishes Penalties for Noncompliance***

The rule makes clear that failure to register or failure to carry proof of registration will be an enforcement priority for federal immigration officials. It carries stiff penalties for offenders, with violators facing up to \$5,000 in fines and six months in jail. Employers won't escape the impact, however. This rule will almost certainly lead to heightened enforcement actions against undocumented workers.

### ***Possible Future Fee Implementation***

Finally, while the form and biometrics process are currently free, DHS is soliciting feedback on whether to charge a \$30 biometric services fee per registrant to cover administrative costs.

## **5 Key Employer Considerations and Action Items**

Employers should consider taking these five immediate steps to align hiring and compliance policies with this new rule.

### **1. Adapt Your I-9 Compliance Practices to New Documentation Considerations**

As indicated above, you could start to see the Proof of Alien Registration document as a commonly presented document during the I-9 verification process. You will want to update your I-9 training

materials and written protocols so that your HR representatives and other leaders avoid rejecting what will soon be valid registration proof.

## **2. Expect Increased Immigration Scrutiny and Workforce Disruptions**

Some of your noncitizen employees have never registered before – but may need to take time off work to complete biometric appointments. Make sure you treat such workers consistently when the time comes for them to miss work for these appointments. Moreover, employers in industries with high numbers of noncitizen workers (e.g., agriculture, hospitality, construction, etc.) may see higher levels of DHS enforcement, so there has never been a more important time to lock down your compliance efforts.

## **3. Avoid Discrimination and Retaliation Issues**

Remember that employers cannot selectively require employees to present registration proof – you must apply uniform verification policies to all workers. Improper actions against registered or unregistered noncitizen workers could trigger liability under anti-discrimination provisions of immigration law, so make sure you understand your obligations and best practices.

## **4. Be Prepared for DHS Audits and Enforcement Actions**

DHS has indicated that enforcement will ramp up, meaning you should prepare for potential audits and know how to react should you be faced with a raid or other enforcement action. Besides reviewing your existing hiring practices to ensure full compliance with current standards, we recommend you follow the steps outlined [in our previous Insight](#) to know how to prepare for and handle an audit or raid.

## **5. Stay Tuned for Legal Challenges and Possible State Adaptations**

Just as quickly as the Trump administration is issuing new regulations and executive orders, challengers are lining up to file legal actions against them – and in many cases courts are blocking the rules from taking effect. You can expect to see opponents file litigation against this rule as well, but the outcome of such challenges is uncertain. Plan to comply and adjust your practices should a court throw a curveball and block or delay the rule. Meanwhile, some state governments or industry regulators may implement additional guidance regarding compliance. If your workforce includes visa-dependent employees, consult with your legal counsel for state-specific obligations.

## **Conclusion**

If you have any questions about these developments or how they may affect your business, please contact your Fisher Phillips attorney, the author of this Insight, or any member of our [Immigration Practice Group](#). Our [Employers' Rapid Response Team](#) (877-483-7781 or [DHSRaid@fisherphillips.com](mailto:DHSRaid@fisherphillips.com)) is on call to provide immediate legal counsel when a raid occurs,

assist with documentation and compliance review, and provide post-raid support and strategy assistance.

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