

Employer Immigration Alert

Volume 3, Issue 1
June 18, 2008

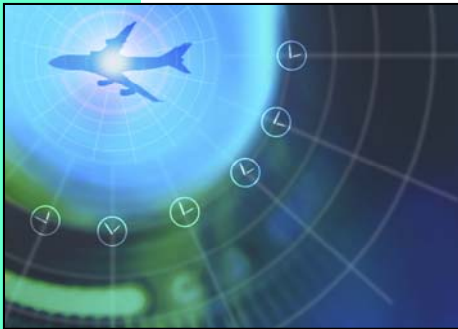
► This Alert discusses new security procedures for business travelers and visitors who enter the U.S. under the Visa Waiver Program.

► ELECTRONIC SYSTEM FOR TRAVEL AUTHORIZATION IMPACTS VISA WAIVER PROGRAM

Business travelers and visitors from most European countries soon will be required to submit and wait for on-line security check clearances before traveling to the United States.

In June 2008, the U.S. Department of Homeland Security (“DHS”) announced publication of an interim final rule establishing the Electronic System for Travel Authorization (“ESTA”), a new online system that will directly impact travel under the Visa Waiver Program (“VWP”). DHS anticipates that ESTA will go into effect in early 2009.

The VWP permits citizens or nationals of participating countries to travel to the United States as visitors for business or pleasure for a period of up to 90 days without first having to obtain a visa. Presently, 27 countries participate in the VWP. These include the United Kingdom, Spain, Italy, Japan, France, the Netherlands, Australia, Ireland and Germany. DHS has reported that more than 15 million visitors from VWP countries arrived in the U.S. during Fiscal Year 2007. ESTA is a program designed to enhance and strengthen security issues related to VWP travel.



Authorized as part of the Implementing Recommendations of the 9/11 Commission Act of 2007, ESTA will require all foreign nationals who plan to travel to the United States under the VWP to obtain an ESTA authorization prior to boarding an air or sea carrier bound for the United States. ESTA applications may be submitted online at any time prior to travel. Although travelers are encouraged to apply as soon as they believe that a trip to the United States is in their future, DHS reports that the system will be able to accommodate situations that involved last-minute or emergency travel to the United States. Specific travel plans are not necessary to submit an ESTA application.

Once the application is submitted online, DHS will compare the biographic information against several different law enforcement databases. In most cases, ESTA applicants will receive an almost instantaneous determination of eligibility for travel under the VWP.

If approved, an ESTA authorization will allow for multiple entries to the U.S. and will remain valid for up to two years or until the traveler’s passport expires, whichever comes first.

In the event of a denial, the applicant will be required to apply for a visa from the U.S. Consulate in his or her home country.

All children, regardless of age, will be required to obtain their own separate ESTA approvals prior to travel to the United States under the VWP.

A Publication from the Immigration Practice Group

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Failure to obtain an ESTA approval once the program becomes mandatory may result in an inability to board the air/sea carrier, delayed processing or denial of admission to the United States.

Travelers are cautioned, however, that an ESTA approval does not guarantee admission to the United States. As with any foreign national visitor, the U.S. Customs and Border Protection officials must make an assessment of eligibility for admission to the U.S. once the travelers presents themselves at the port-of-entry.

DHS will begin accepting voluntary ESTA applications as early as August 1, 2008. These applications may be submitted online at <http://esta.cbp.dhs.gov>. Mandatory implementation of ESTA will occur 60 days after publication of a final notice in *The Federal Register*, which DHS anticipates sometime in November 2008.

If DHS uses proper technology and sufficient manpower, the impact on travel should be minimal. However, based upon recent experience with lengthy delays for FBI name check clearances, some individuals could be severely delayed in their ability to travel to the United States. Therefore, we recommend that travelers submit online ESTA applications at the earliest opportunity to try to minimize any risk of delay.

For more information about ESTA, visit http://www.dhs.gov/xnews/releases/pr_1212498415724.shtm. More information about the VWP can be accessed at: http://www.customs.gov/xp/cgov/travel/id_visa/business_pleasure/vwp/vwp.xml.

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