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## Implementation of Electronic System for Travel Authorization

(05/23/2008)

*The following letter was sent to Congress by the Department of Homeland Security to update implementation of the Electronic System for Travel Authorization.*

The Honorable Bennie G. Thompson  
Chairman  
Committee on Homeland Security  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Thompson:

The purpose of this letter is to provide a report on the Department of Homeland Security (DHS) implementation plan for the Electronic System for Travel Authorization (ESTA), as set forth in Section 711(d) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (the Act), Pub. L. No. 110-53, 121 Stat. 344 (August 3, 2007), which amends Section 217(h) of the Immigration and Nationality Act (8 U.S.C. 1187).

### Legislative Requirement

This report responds to the Act, which states, in pertinent part:

"Not later than 60 days before publishing notice regarding the implementation of the System in the Federal Register, the Secretary of Homeland Security shall submit a report regarding the implementation of the system to –

- i. the Committee on Homeland Security of the House of Representatives;
- ii. the Committee on the Judiciary of the House of Representatives;
- iii. the Committee on Foreign Affairs of the House of Representatives;
- iv. the Permanent Select Committee on Intelligence of the House of Representatives;
- v. the Committee on Appropriations of the House of Representatives;
- vi. the Committee on Homeland Security and Governmental Affairs of the Senate;
- vii. the Committee on the Judiciary of the Senate;
- viii. the Committee on Foreign Relations of the Senate;
- ix. the Select Committee on Intelligence of the Senate; and
- x. the Committee on Appropriations of the Senate."

Pursuant to the Act, DHS is required to implement an automated ESTA to screen individuals wishing to travel to the United States under the Visa Waiver Program (VWP). To accomplish this task, an ESTA Program Management Office (PMO) has been established within U.S. Customs and Border Protection (CBP) to manage, oversee, plan, and implement the ESTA program. The CBP Office of Information and Technology will be responsible for developing an automated ESTA application and screening system for use by VWP travelers. On March 11, 2008, DHS sent a draft rule for ESTA to the Office of Management and Budget (OMB) for their review.

### ESTA Applications and Screening

The ESTA will require that applicants use the automated system to electronically provide biographical and VWP eligibility information to CBP. This information will allow DHS to meet the statutory mandate that ESTA determine, in advance of the applicant's travel, whether the applicant is eligible to travel under the VWP and whether he or she poses a law enforcement or security risk.

In the event that a traveler is denied authorization under the ESTA to travel to the United States under the VWP, we expect to require him or her to apply for a visa to travel to the United States. This is consistent with current practice, whereby travelers who arrive at a U.S. port of entry (POE) and apply for admission under the VWP, but are determined by CBP to be ineligible for entry under the VWP, may be returned to their country of origin to apply for a visa to enter the United States.

Additionally, we expect the implementation of ESTA to advance the DHS and CBP goals of securing U.S. borders by pushing the zone of security outward and enabling the screening of VWP travelers prior to boarding a carrier en route to the United States.

Based on its operational experience, CBP has identified the need to create an ESTA that is fully automated and provides, to the extent possible, a real-time response to individual applicants. CBP expects these features to allow for quick identification of risks to aviation and the United States while providing a timely response to individual travelers. CBP is also working to create an ESTA that accommodates those travelers departing for



### see also:

[in Electronic System for Travel Authorization:](#)

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the United States on short notice and those travelers who lack easy access to the Internet.

As with all other non-VWP travelers, persons traveling on an approved ESTA will continue to be screened throughout pre-departure, in flight, and upon arrival during their application for admission at a POE. For example, pre-departure screening will continue to be carried-out by host country border control authorities, CBP Immigration Advisory Program staff assigned overseas, CBP Office of Alien Smuggling Interdiction personnel, and the CBP Regional Carrier Liaison Groups. In-flight screening will continue to be conducted by the CBP Passenger Analysis Units at arrival ports and the CBP National Targeting Center. Screening upon arrival will continue to be conducted by CBP officers in the performance of their primary and secondary inspections, which may also involve the CBP pre-primary roving teams and CBP enforcement officers for extended secondary processing or referrals.

Consistent with the State Department's model for the Electronic Visa program, CBP anticipates providing the ESTA automated questionnaire and instructions in a number of languages.

#### **ESTA Outreach**

DHS and CBP are working with the Department of State (DOS) and the Department of Commerce to develop a joint comprehensive outreach plan to communicate the ESTA requirements to the traveling public. This comprehensive communication and outreach effort will inform the foreign public of the requirements under the forthcoming ESTA rule and provide information on how to plan for travel accordingly.

CBP has reached out to the transportation carrier associations for support in the communication endeavor and to address the perceived "burden" of this Act's requirement. While each applicant bears the responsibility of obtaining an ESTA authorization in advance of air or sea travel under the VWP program, CBP anticipates that there will be applicants that arrive at the foreign airports and seaports before obtaining an ESTA authorization. In an effort to assist the carriers and facilitate legitimate travel to the United States, CBP will work with the travel industry to identify a solution or solutions to these challenges.

#### **ESTA Development and Timeline**

CBP has completed a significant amount of work needed to move forward in building the ESTA. The ESTA PMO will continue to develop the required documentation necessary to move through the Capital Planning, DHS Milestone, and Systems Lifecycle processes required by any information technology system built within DHS. In addition, a continuous communication effort will be implemented while working with other agencies within the United States Government and our international partners for the smooth implementation of the ESTA.

The DHS goal is to ensure that the initiation of the ESTA program is as smooth and user friendly as possible for our VWP partner countries and affected VWP travelers. We also want to ensure a smooth transition for our DOS colleagues and CBP staff.

Thank you for this opportunity to provide you with a report outlining our plans to implement the ESTA as required in Section 711 of the Act. I appreciate your interest in DHS and our continuing efforts to implement the ESTA and look forward to working with you on future homeland security issues. If I may be of further assistance, please contact the Office of Legislative Affairs at **(202) 447-5890**.

Sincerely,

Donald H. Kent Jr.  
Assistant Secretary  
Office of Legislative Affairs  
U.S. Department of Homeland Security

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