

October 19, 2006

(b) (7)(E)

MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS
DIRECTOR, PRECLEARANCE

FROM: Assistant Commissioner
Office of Field Operations

SUBJECT: E- Passport Requirement for Visa Waiver Program
Applicants: October 26, 2006

Pursuant to the Enhanced Border Security and Visa Entry Reform Act, 2002 (EBSVERA), passports issued on or after October 26, 2006, which are used by aliens for admission to the United States under the terms of the Visa Waiver Program (VWP) (Immigration and Nationality Act (INA) section 217), must contain an electronic circuit chip containing the biographic and biometric information of the passport holder, otherwise known as an "E-passport". As an alternative to an E-passport, the alien may obtain a nonimmigrant visa in his or her non-compliant passport. Most of the VWP countries will be issuing E-passports by the deadline; exceptions are noted hereafter.

All E-passports are distinguished by the symbol (represented here) printed on the passport's front cover in imitation gold leaf:



VWP nationals arriving in the United States with passports issued on or after October 26, 2006 that are not E-passports may be denied admission, and may be detained pending removal. Therefore, CBP Officers must look at the date of issuance of the passport to determine applicability.

CBP Officers may exercise discretion (b) (7)(E)

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Consistent with CBP's existing policies on the exercise of discretion, (b) (7)(E)

. Aliens granted

paroles for non-compliant passports will be required to pay the \$65 parole fee, and will be paroled for ninety days. In addition, the following may be considered under the above parole guidelines:

- (b) (7)(E)

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Emergency Passports –VWP applicants presenting emergency or temporary passports issued as of October 26, 2006 that are not machine-readable, are without digital photos and/or are not E-passports may be paroled for ninety days with fee. This is consistent with the guidance stated in the memo of July 7, 2006, titled *VWP Travel with Emergency, Temporary, Official and Diplomatic Passports* (attached). Please refer to it for further details.

Renewed/Extended Passports – VWP passports that are not E-passports, are issued prior to October 26, 2006, and renewed/extended after October 26, 2006, will not be considered to comply with the E-passport requirement.

Exceptions – Almost all VWP countries have been certified by DHS as producing passports compliant with the E-passport requirement, however, not all nationals of the compliant countries will have passports that comply with that requirement. Some VWP nationals living outside their home country may not be able to obtain an E-passport. The two countries that will not meet the E-passport deadline are Andorra and Brunei. As a result, CBP does not anticipate a large impact on port of entry operations due to the relatively small populations of these two countries.

Other exceptions are:

The Netherlands – Children under the age of 15 years may be included in one of their parents' passport.

Austria – Children under the age of 12 may not have E-passports.

Finland – Sea crewmembers' may not have E-passports.

Passport readers – It is planned to have most E-passport readers in place at the ports of entry by October 26, 2006. Traveler and Security Facilitation will issue operational instructions for the use of the E-passport readers at those ports of entry receiving deployment of the units.

Denial of admission for lack of a compliant passport will not bar the alien from future entries under the VWP once the alien obtains a compliant passport. Under normal circumstances, an alien who is found inadmissible under the VWP would be ineligible as a VWP applicant for all future entries.

The E-passport requirement does not apply to the Guam Visa Waiver Program.

If the decision is made to refuse entry, complete VWP refusal procedures in (b) (7)(E). As with previous policy relating to the digital photo requirement, if the decision is made to parole, complete all necessary parole documents and collect the appropriate parole fee, \$65. The alien may be paroled for ninety days. (b) (7)(E)

(b) (7)(E) Update CBP systems (b) (7)(E) to reflect the action taken, including (b) (7)(E)

Starting October 26, 2006, CBP Headquarters will be collecting data on the number of denials and paroles granted for this purpose. It is imperative that all VWP refusal cases and paroles be enrolled in (b) (7)(E) | (b) (7)(E)

(b) (7)(E) must be completed:

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Existing procedures for documenting the refusal or parole of VWP applicants not in possession of a machine-readable passport and/or a passport without a digital photo remain in place.

CARRIER LIABILITY

(b) (7)(E)

When a violation of the E-passport requirement occurs after October 26, 2006, CBP Officers are to submit a Form I-849 (Report of Possible Violation of the INA) to the Carrier Fines Branch. (b) (7)(E)

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Note that there will be no violations issued for aliens who arrive with a machine-readable passport that was issued prior to October 26, 2005, and does not contain a digital photo. If you have any questions, you may call the Carrier Fines Branch at (b) (7)(E) and speak with a fines officer.

Should you have any questions or require additional information, please contact (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Executive Director, or (b) (6), (b) (7)(C) Program Manager, Admissibility Requirements and Migration Control, at (b) (6), (b) (7)(C)

/s/

(b) (6), (b) (7)(C)

Attachments

Weekly Muster

Topic: (b) (7)(E) to Query and Retrieve e-Passport Data

HQ POC: (b) (6), (b) (7)(C)

Office: Traveler Security & Facilitation, Office of Field Operations

Week of Muster: October 23, 2006

- Effective 10/24/2006 new functionality is available from the (b) (7)(E) (b) (7)(E) that enables officers in secondary to query and retrieve electronic passport (e-Passport) data for both U.S. and foreign travelers.
- By 10/26/2006, all Visa Waiver Program (VWP) countries will be required to issue biometrically enabled travel documents known as e-Passports. The U.S. and several other countries are also issuing passports in this new format.
- In addition to the usual data displayed on a passport, e-Passports also contain an embedded chip with a photo of the traveler and biographic information.
- New document readers have been installed in the designated lanes at 33 U.S. airports that account for 97% of the VWP traffic. When an e-Passport is scanned by one of these new readers, the passport data, including the photo, is stored in (b) (7)(E) and can be retrieved and viewed from the new (b) (7)(E).
- In order to retrieve e-Passport data, (b) (7)(E) must be active on the officer's workstation. The CBPO can scan the document with any document reader or manually type the query information on the traveler.
- ***NOTE: (b) (7)(E)
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Plans are underway to deploy an upgraded version of (b) (7)(E) in November 2006 that will support the (b) (7)(E) format.