

January 16, 2009

MEMORANDUM FOR: Directors, Field Operations
Office of Field Operations

Director, Pre-clearance
Office of Operations

FROM: Assistant Commissioner /s/
Office of Field Operations

SUBJECT: Additional Aliens Final Rule Publication
(b) (7)(E)

This memorandum is to inform your office that “Additional Aliens” Final Rule (8 CFR Parts 215 and 235) was published in the Federal Register on December 19, 2008 as “The United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT); Enrollment of Additional Aliens in US-VISIT; Authority to Collect Biometric Data from Additional Travelers and Expansion to the 50 Most Highly Trafficked Land Border Ports of Entry.” Enforcement of the Additional Aliens Final Rule requirements become effective at all air, sea, and land border ports of entry (POE) on January 18, 2009.

Currently, aliens arriving at U.S. Customs and Border Protection (CBP) air, land, and sea POEs seeking entry into the United States with nonimmigrant visas or those traveling without a visa as part of the Visa Waiver Program (VWP) are subject to US-VISIT requirements, with certain limited exceptions. The Additional Aliens Final Rule will permit enrollment of any alien in US-VISIT, except those Canadian citizens who are applying for admission as B-1/B-2 visitors for business or pleasure, and those who are specifically exempted (e.g. Diplomats, Ambassadors).

Several large classes of aliens will be affected by this rule change, including:

- Lawful Permanent Residents (LPR);
- aliens seeking admission on immigrant visas;
- refugees and asylees;
- aliens paroled into the United States; and
- aliens applying for admission under the Guam Visa Waiver Program (VWP).

Canadian citizens included in the adoption of this rule will be those issued a Form I-94, including (1) Canadians applying for admission in the following non-immigrant classifications: C, D, F H, I, J, L, M, O, P, Q-1, Q-3, R, S, T, TN; and (2) Canadians who are granted a waiver of inadmissibility in order to enter the United States.

At CBP primary in the air and sea environments, the requirements of the final rule will be applied to all new classes of aliens including LPRs. For closed loop voyages, all classes of aliens and LPRs will continue to be processed as they are today. In order to capture biometrics using the Traveler Primary Arrival Client for aliens that fall under the rule, officers will be required to select the (b) (7)(E) . To capture biometrics using CBP Prime, officers will be required to toggle to the (b) (7)(E)

At CBP primary in the land environment, LPRs will continue to be processed as they are today. However, for (b) (7)(E) secondary referrals, US-VISIT requirements will be applied to all individuals subject to the final rule during secondary inspections. When operations permit, every attempt should be made to screen as many LPRs as possible in US-VISIT using the (b) (7)(E) function. Canadian citizens applying for admission under the above mentioned classifications will be required to submit biometrics only during issuance of the Form I-94. All other new classes of aliens shall be referred to secondary for US-VISIT processing at every encounter. Officers continue to have the discretion to refer individuals for additional screening, including US-VISIT if applicable, when re-entering on an existing I-94 or entering as an LPR. All aliens, including LPRs, referred for US-VISIT processing will be processed in secondary using th (b) (7)(E) function (b) (7)(E) from main menu). This rule does not impact or change the current processing procedures for Border Crossing Card holders

If port operations become adversely affected at any time during the enforcement of the final rule, port management will have the authority to implement mitigation procedures at their discretion. Mitigation will include discontinuing the enforcement of the final rule and the processing of all classes of aliens as defined in the rule, including LPRs. If operations continue to be impacted, the port should follow standard port mitigation procedures from that point on as provided in the attached CBP Directive 3340-041, *Standard Operating Procedures During System Outages at Air, Land, and Sea Port of Entry*.

A muster relevant to your port environment (air, land, or sea) is attached. If you have any questions regarding the information contained in this memorandum, please contact Mr. Paul M. Morris, Executive Director, Admissibility and Passenger Programs at (202) (b) (6), (b) (7)(C)

Attachments