

# FACT SHEET | The 9/11 Law and the Visa Waiver Program



## Additional Security Features for all VWP countries

The "Implementing Recommendations of the 9/11 Commission Act of 2007"—the 9/11 Law—introduces security enhancements for the Visa Waiver Program that will apply immediately to new VWP countries and will be phased in for current VWP members. These enhancements will provide a more secure international travel environment and help facilitate the movement of legitimate travelers.

- An **Electronic Travel Authorization (ETA) system** will collect basic passenger biographic information which the Department of Homeland Security (DHS) will use to assess potential threats and determine passengers' eligibility to travel under the VWP.
  - Before traveling, passengers will submit ETA applications via Internet, or other means, and will be told quickly whether they may travel on the VWP. Passengers who are not given an ETA will be referred to a U.S. consulate to apply for a visa.
  - DHS will set the duration of the ETA approval, up to a maximum validity of three years, and its cost, expected to be nominal.
  - An ETA is not a visa.
- **The new law spells out requirements that VWP countries must:**
  - report promptly, via Interpol or other specified means, information about the theft or loss of passports;
  - share passenger information to assist in determining whether U.S.-bound passengers pose a security threat; and
  - accept their citizens for repatriation no more than three weeks after a court issues a final order of removal.
- The law establishes **additional security-related factors** in considering new VWP candidates: a candidate's airport security, air marshals program, passport/travel document standards, and broader counter-terrorism cooperation. Over the next two years, DHS will also assess whether current VWP members satisfy these new standards.

## Waiver of the three percent refusal rate threshold

The 9/11 law also allows the VWP's three percent nonimmigrant visa refusal rate criterion to be waived for countries that meet the enhanced VWP security requirements and that have EITHER a visa refusal rate of 10 percent or less OR an overstay rate below a maximum rate, yet to be established.

- The new waiver authority cannot be exercised until DHS has put in place the ETA system and a new exit system to verify the departure of 97% of foreign nationals exiting through airports.
- The new maximum overstay rate will not be established before the air exit system is in place.