

§ 235.13 U.S. Asia-Pacific Economic Cooperation Business Travel Card Program.

(a) *Description.* The U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card Program is a voluntary program designed to facilitate travel for bona fide U.S. business persons engaged in business in the APEC region and U.S. government officials actively engaged in APEC business within the APEC region. Participants will receive a U.S. APEC Business Travel Card that will enable them access to fast-track immigration lanes at participating airports in foreign APEC member economies. In order to obtain a U.S. APEC Business Travel Card, an individual must meet the eligibility requirements specified in this section, apply in advance, pay any requisite fee and be approved as a card holder. The APEC member economies are identified at <http://www.apec.org>.

(b) *Program eligibility criteria*—(1) *Eligible individuals.* An individual is eligible for the U.S. APEC Business Travel Card if he or she is:

- (i) A U.S. citizen;
- (ii) An existing member in good standing of a CBP trusted traveler program or approved for membership in a CBP trusted traveler program during the application process described in paragraph (c) of this section; and
- (iii) A bona fide U.S. business person engaged in business in the APEC region or U.S. Government official actively engaged in APEC business.

(A) “APEC business” means U.S. government activities that support the work of APEC.

(B) A “bona fide business person engaged in business in the APEC region” means a person engaged in the trade of goods, the provision of services, or the conduct of investment activities in the APEC region. Professional athletes, news correspondents, entertainers, musicians, artists or persons engaged in similar occupations are not considered to be bona fide business persons engaged in business in the APEC region.

(2) *Conditions regarding the use of the U.S. APEC Business Travel Card.* (i) The U.S. APEC Business Travel Card is not transferable and may be used only by the U.S. APEC Business Travel Card

holder and not by anyone else including the card holder’s spouse or child.

(ii) The U.S. APEC Business Travel Card can be used only if the card holder is traveling solely for business purposes to a foreign APEC member economy and is not engaging in paid employment in the foreign APEC member economy.

(c) *Application process.* (1) Each applicant must complete and submit an application electronically through the Global Entry Enrollment System (GOES) or other applicable process as determined by CBP. The application and application instructions for the card are available as an add-on to the CBP trusted traveler application at www.globalentry.gov.

(2) Each applicant must certify that he or she is an existing member in good standing in a CBP trusted traveler program or that he or she has submitted an application to a CBP trusted traveler program; that he or she is a bona fide U.S. business person engaged in business in the APEC region or U.S. Government official actively engaged in APEC business; and, that he or she is not a professional athlete, news correspondent, entertainer, musician, artist or person engaged in a similar occupation.

(3) Each applicant must provide his or her signature so that the signature will appear on the face of the card.

(4) If the applicant is not a member of a CBP trusted traveler program, the applicant must concurrently apply for membership in a CBP trusted traveler program and be approved for such membership. Applicants for a CBP trusted traveler program must have an in-person interview, undergo a vetting process and pay the relevant CBP trusted traveler fee. Active membership in a CBP trusted traveler program is necessary for the entire duration of the U.S. APEC Business Travel Card. If membership in the CBP trusted traveler program is set to lapse before the U.S. APEC Business Travel Card expires, the individual must renew his or her CBP trusted traveler membership prior to its expiration date in order to retain membership in the U.S. APEC Business Travel Card Program.

(5) Each applicant must pay a non-refundable fee in the amount set forth at

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8 CFR 103.7(b)(1)(ii)(N) for “U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card” at the time of application. The fee is to be paid to CBP at the time of application through the Federal Government’s on-line payment system, Pay.gov or other CBP-approved process.

(6) The U.S. APEC Business Travel Card is valid for a period of 3 years or until the expiration date of the card holder’s passport if that is earlier, provided that membership is not suspended or terminated by CBP prior to the end of this period. CBP can terminate use of the U.S. APEC Business Travel Card if the card holder is no longer a member of a CBP trusted traveler program or if the individual is not compliant with the program requirements. Each applicant may apply to renew the card prior to its expiration.

(d) *Expedited entry privileges.* The U.S. APEC Business Travel Card will enable card holders access to a dedicated fast-track lane for expedited immigration processing at participating airports in foreign APEC member economies.

(e) *Entry requirements.* U.S. APEC Business Travel Card holders must present any travel or identity documentation, such as a passport and visa, required by the foreign APEC member economies.

(f) *Denial, removal and suspension.* (1) If an applicant is denied a U.S. APEC Business Travel Card, CBP will notify the applicant of the denial, and the reasons for the denial. CBP will also provide instructions regarding how to proceed if the applicant wishes to seek additional information as to the reason for the denial.

(2) A U.S. APEC Business Travel Card holder may be suspended or removed from the U.S. APEC Business Travel Card Program if CBP determines at its sole discretion that:

(i) The U.S. APEC Business Travel Card holder provided false information in the application and/or during the application process;

(ii) The U.S. APEC Business Travel Card holder failed to follow the terms, conditions and requirements of the program (including continued active membership in a CBP trusted traveler program);

(iii) The U.S. APEC Business Travel Card holder has been arrested or convicted of a crime or otherwise no longer meets the program eligibility criteria; or

(iv) Such action is otherwise necessary.

(3) CBP will notify the U.S. APEC Business Travel Card holder of his or her suspension or removal in writing. Such suspension or removal is effective immediately.

(4) A U.S. APEC Business Travel Card applicant or a U.S. APEC Business Travel Card holder who is denied, suspended, or removed will not receive a refund, in whole or in part, of the application fee.

(g) *Redress.* An individual whose application is denied or whose participation is suspended or terminated has two possible methods of redress. These processes do not create or confer any legal right, privilege, or benefit on the applicant or participant, and are wholly discretionary on the part of CBP. The methods of redress are:

(1) *Enrollment center.* If the applicant or participant applied concurrently for the U.S. APEC Business Travel Card and a CBP trusted traveler program, the applicant or participant may contest his or her denial, suspension or removal by writing to the enrollment center where that individual’s CBP trusted traveler program interview was conducted. If the applicant or participant was already a member of a CBP trusted traveler program, the applicant or participant may contest his or her denial, suspension or removal by writing to the enrollment center where that individual’s signature was collected for the U.S. APEC Business Travel Card. The enrollment center addresses are available at www.globalentry.gov, <http://www.globalentry.gov/nexus.html> and <http://www.globalentry.gov/sentri.html>. The letter must be received by CBP within 30 calendar days of the date provided as the date of suspension or removal. The individual should write on the envelope “Redress Request RE: U.S. APEC Business Travel Card.” The letter should address any facts or conduct listed in the notification from

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CBP as contributing to the denial, suspension or removal and why the applicant or participant believes the reason for the action is invalid. If the applicant or participant believes that the denial, suspension or removal was based upon inaccurate information, the individual should also include any reasonably available supporting documentation with the letter. After review, CBP will inform the individual of its redress decision. If the individual's request for redress is successful, the individual's eligibility to be a U.S. APEC Business Travel Card holder will continue immediately.

(2) *Ombudsman*. Applicants and participants may contest a denial, suspension or removal by writing to the CBP Trusted Traveler Ombudsman at the address listed on the Web site www.globalentry.gov.

(h) *Duration of U.S. APEC Business Travel Card Program*. DHS will issue U.S. APEC Business Travel Cards through September 30, 2018. Unless suspended or revoked, U.S. APEC Business Travel Cards issued on or before September 30, 2018 are valid until their expiration date, even if the expiration date is after September 30, 2018.

[79 FR 27174, May 13, 2014]

PART 236—APPREHENSION AND DETENTION OF INADMISSIBLE AND DEPORTABLE ALIENS; REMOVAL OF ALIENS ORDERED REMOVED

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SOURCE: 62 FR 10360, Mar. 6, 1997, unless otherwise noted.

Subpart A—Detention of Aliens Prior to Order of Removal

§ 236.1 Apprehension, custody, and detention.

(a) *Detainers*. The issuance of a detainer under this section shall be governed by the provisions of § 287.7 of this chapter.

(b) *Warrant of arrest*—(1) *In general*. At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest. A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of this chapter and may be served only by those immigration officers listed in § 287.5(e)(3) of this chapter.

(2) If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may authorize its cancellation.

(c) *Custody issues and release procedures*—(1) *In general*. (i) After the expiration of the Transition Period Custody Rules (TPCR) set forth in section 303(b)(3) of Div. C of Pub. L. 104-208, no alien described in section 236(c)(1) of the Act may be released from custody during removal proceedings except pursuant to section 236(c)(2) of the Act.

(ii) Paragraph (c)(2) through (c)(8) of this section shall govern custody determinations for aliens subject to the TPCR while they remain in effect. For purposes of this section, an alien “subject to the TPCR” is an alien described in section 303(b)(3)(A) of Div. C of Pub. L. 104-208 who is in deportation proceedings, subject to a final order of deportation, or in removal proceedings.