

SUPPORTING STATEMENT

Arrival and Departure Record (Forms I-94, I-94W) and Electronic System for Travel Authorization-ESTA OMB No. 1651-0111

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Forms I-94 and I-94W are included in the manifest requirements imposed by Sections 231 and 235 of the Immigration and Nationality Act and are required to be prepared by aliens while en route to the United States and presented upon arrival at a sea or air port of entry within the United States. Under the Act, it is the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having any alien on board to deliver to the CBP officers at the port of arrival lists or manifests of the persons on board such vessel or aircraft. The list or manifest must be in the form of a separate Arrival/Departure Record, CBP Form I-94, prepared on board for most passengers, excluding U.S. citizens, lawful permanent resident aliens of the United States, and aliens seeking to immigrate to the United States.

Aliens traveling under the Visa Waiver Program (VWP) program are required to present a completed, signed Nonimmigrant Visa Waiver Arrival Departure, CBP Form I-94W, as a condition of admission pursuant to 8 C.F.R. § 217.2(b)(1). However, so long as these travelers are traveling in the air or sea environment and have a travel authorization obtained through the Electronic System for Travel Authorization (ESTA), they may forgo completing the paper form I-94W form. ESTA is not available for VWP travelers at land border crossings, though it should be noted that the overwhelming majority of VWP travelers (approximately 99 percent) arrive into the United States in the air environment.

ESTA was provided for by Public Law 110-53. Section 711 of the 9/11 Act requires that the Secretary of Homeland Security, in consultation with the Secretary of State, develop and implement an internet-based system which shall collect such biographical and other information as the Secretary determines necessary to determine, in advance of travel, the

eligibility of the alien to travel to the United States and whether such travel poses a law enforcement or security risk.

As of June 29, 2010, CBP is able to use ESTA to admit travelers to the United States at all airports and large seaports, rather than collecting the paper I-94W from travelers as they undergo the admission process. Very few passengers will continue filling out CBP Form I-94W, but it cannot be eliminated completely at this time. As noted previously, ESTA is not available in the land environment. Additionally, travelers will occasionally have to complete an I-94W if there is an outage either at the port or with ESTA.

CBP gathers I-94 data from existing automated sources such as the Advance Passenger Information System (APIS) in lieu of requiring passengers arriving by air or sea to submit a paper I-94 upon arrival. The paper I-94 is still required from travelers entering the U.S. at a land border.

Alien passengers can access and print their electronic I-94 via the website www.cbp.gov/I94.

CBP proposes to revise this ICR as a result of a Final Rule that amends the DHS regulations by allowing certain nonimmigrant Mexican nationals presenting a Border Crossing Card, or other proper immigration documentation, to travel in New Mexico up to 55 miles from the border without filing a CBP Form I-94. The current regulations allow this only up to 25 miles from the border.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The data collected on CBP Forms I-94/94W and on ESTA provide information required to support DHS mission requirements as they relate to the screening of alien visitors to the United States. Specifically, the information collected is used to assess potential law enforcement and national security risks, and the timely and accurate capture of data that enables matching of alien arrival and departure records that are necessary to monitor alien compliance with United States law.

ESTA was mandated by Congress to enhance national security by increasing the amount of information available to DHS regarding VWP travelers before such travelers embark on a carrier destined for the United States. As the rationale for mandating the implementation of ESTA, Congress noted that VWP travelers are not subject to the same degree of screening as those travelers who must first obtain a visa before departing

for the United States. Therefore, the data collected via ESTA is to mitigate the security vulnerabilities of the VWP, whereby travelers seeking to avoid the scrutiny of the visa issuance process or circumvent immigration laws may attempt to enter the United States under the VWP.

To ease the burden on the public, these forms have been translated into 17 different languages.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Forms I-94 and I-94W are paper documents prepared by most aliens traveling to the United States (though now most VWP travelers will forgo completing the I-94W) that are filled out on conveyances or at the land border. Information about these forms can be found at:

http://www.cbp.gov/xp/cgov/travel/id_visas/i-94_instructions/filling_out_i94.xml and http://www.cbp.gov/xp/cgov/travel/id_visas/business_pleasure/vwp/i94_samples.xml

ESTA is a web-based system that enables VWP travelers to electronically enter applications for authorization to travel to the United States via the VWP. ESTA can be accessed at http://www.cbp.gov/xp/cgov/travel/id_visas/esta/ and samples of CBP Forms I-94 and I-94W can be found at <http://www.cbp.gov/linkhandler/cgov/toolbox/forms/arrival.ctt/arrival.pdf> and http://www.cbp.gov/linkhandler/cgov/toolbox/forms/visa_waiver.ctt/visa_waiver.pdf.

CBP captures I-94 data for passengers arriving by air or sea from the Advance Passenger Information System (APIS) in lieu of passengers submitting a paper I-94.

Passengers can access and print their electronic I-94 via www.cbp.gov/i94. This supplements the existing process whereby a passenger who wanted a copy of their Form I-94 would need to file a Form I-102. Passengers may still file a Form I-102 for this purpose if desired.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

CBP has implemented a multi-phase project that resulted in eliminating the CBP Form I-94W because much of the information on this form is also provided through ESTA prior to travel. The vast majority of these forms

have been eliminated which greatly reduced duplication of information collection.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This information collection does not have an impact on small businesses or other small entities.

6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Without this information collection, CBP would be unable to track or document an alien's arrival to and departure from the United States.

7. Explain any special circumstances.

This information is collected in a manner consistent with the guidelines of 5 CFR 1320.6.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

An Final Rule was published on 6/12/2013 (Volume 78, Page 35103). This Rule will be included in this ICR.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no offer of a monetary or material value for this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

A PIA, entitled Electronic System for Travel Authorization, dated July 2, 2008 was submitted with this ICR. Also a SORN entitled Electronic System for Travel Authorization dated June 10, 2008 (Vol. 73, Page 32720), and a SORN entitled, Non-Immigrant Information System, dated December 19, 2008 (Vol. 73, Page 77739) are included in this ICR.

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, and the explanation to be given to persons from whom the information is requested.**

There are no questions of a sensitive nature.

- 12. Provide estimates of the hour burden of the collection of information.**

Form/Collection	Number of Respondents	Total Annual Responses	Time Per Respondent (in hours)	Annual Reporting Burden Hours
I-94	4,387,550	4,387,550	0.133 (8 mins)	583,544
I-94 Website	5,047,681	5,047,681	0.066 (4 mins)	333,147
I-94W	100,000	100,000	0.133 (8 mins)	13,300
ESTA burden	19,140,000	19,140,000	0.25 (15 mins)	4,785,000
ESTA fee* (subset of total ESTA respondents)	16,220,000 (subset of 19.1m above)	16,220,000 (subset of 19.1m above)	0.00 (already included in ESTA burden above)	0.00 (already included in ESTA burden above)
TOTAL	28,675,231	28,675,231		5,714,991

*Note that the 16.2 million respondents paying the \$14.00 for the ESTA fees are a subset of the total 19.1 million ESTA respondents. They should not be added to the total respondents (or else they would be double counted).

The table above reflects the following changes resulting from a Final Rule that amends the DHS regulations by allowing certain nonimmigrant Mexican nationals presenting a Border Crossing Card, or other proper immigration documentation, to travel in New Mexico up to 55 miles from the border without filing a CBP Form I-94:

- A reduction of 12,450 responses for CBP Form I-94.
- A reduction of 1,656 burden hours for CBP Form I-94.
- Note that there was also a significant reduction in I-94's recently due to the automation of the I-94 which resulted in a reduction of 1,276,800 burden hours.

The number of respondents who pay the ESTA fees is different from the total number of applicants. Under the 2008 ESTA interim final rule, we believe that most travelers will need to access ESTA each time they

intend to travel to the United States to update their information. Under the 2010 ESTA interim final rule, which implements the \$14.00 fees, these fees are paid only once—during initial application or to update an expired travel authorization—not for every trip to the United States. Thus, the number of respondents estimated under the ESTA fee accounts for *repeat* travelers.

Public Cost:

The estimated annual public cost is **\$480,222,481** and is calculated as follows:

Form/ Collection	Number of Respondents	Annual Reporting Burden Hours	Value of time*	Fee charge (\$6.00 per respondent)	ESTA fee (\$14.00 per respondent)	Total public cost
I-94	4,387,550	583,544	\$10,503,792	\$26,325,300	\$0	\$36,829,092
I-94 Website	5,047,681	333,147	\$14,025,489	\$0	\$0	\$14,025,489
I-94W	100,000	13,300	\$239,400	\$600,000	\$0	\$839,400
ESTA burden	19,140,000	4,785,000	\$201,448,500	\$0	\$0	\$201,448,500
ESTA fee	16,220,000		\$0	\$0	\$227,080,000	\$227,080,000
TOTAL			\$226,217,181	\$26,925,300	\$227,080,000	\$480,222,481

* Recall from the previous table that the burden for the I-94 and I-94W forms is 8 minutes (0.133 hours); the burden for ESTA is 15 minutes (0.25 hours). We use the Department of Transportation’s guidance on value of travel time for value of time estimates: \$18.00 for travel by land (this applies to I-94 and I-94W) and \$42.10 for travel by air and sea (this applies to ESTA and I-94 Website).

The table above reflects the following changes resulting from a Final Rule that allows certain nonimmigrant Mexican nationals presenting a Border Crossing Card, or other proper immigration documentation, to travel in New Mexico up to 55 miles from the border without filing a CBP Form I-94:

- A reduction of \$29,808 in “value of time” for the I-94.
- A reduction of \$74,700 for the fee charge of \$6.00 for the I-94.
- A reduction in the public cost of \$104,508 for the I-94 (from \$36,933,600 to \$36,829,092).

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

There are no record keeping, capital, start-up or maintenance costs associated with this information collection. The fee charges related to this ICR are described in item #12 above.

14. Provide estimates of annualized cost to the Federal Government. Also provide a description of the method used to estimate cost,

which should include quantification of hours, operational expenses (such as equipment overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

There are no Government costs to process these forms because the costs are offset by the fee charges.

15. Explain the reasons for any program changes or adjustments reported in Items 12 or 13 of this Statement.

CBP revised the I-94 information collection to reflect a Final Rule that amends the DHS regulations by allowing certain nonimmigrant Mexican nationals presenting a Border Crossing Card, or other proper immigration documentation, to travel in New Mexico up to 55 miles from the border without filing a CBP Form I-94. The current regulations allow this only up to 25 miles from the border. As a result of this Final Rule, this ICR reflects a reduction of 12,450 I-94's submitted.

16. For collection of information whose results will be published, outline plans for tabulation, and publication.

This information collection will not be published.

17. If seeking approval to not display the expiration date, explain the reasons that displaying the expiration date would be inappropriate

CBP requests not to display the expiration date on these two forms because large quantities are stocked at CBP ports and by airlines in 17 languages. However, the expiration date is displayed on the ESTA website.

18. "Certification for Paperwork Reduction Act Submissions."

CBP does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods

No statistical methods were employed.