

## SUPPORTING STATEMENT

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

#### A . Justification

**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.**

On December 18, 2015, the President signed into law the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 as part of the Consolidated Appropriations Act of 2016. To meet the requirements of this new act, the Department of Homeland Security (DHS or the Department) is strengthening the security of the VWP through enhancements to the Electronic System for Travel Authorization (ESTA) application and to the Nonimmigrant Visa Waiver Arrival/Departure Record (Form I-94W) form.<sup>1</sup> Many of the provisions of the new law became effective on the date of enactment of the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015. The act generally makes certain nationals of VWP countries ineligible (with some exceptions) from traveling to the United States under the VWP if the applicant is also a national of, or has at any time on or after March 1, 2011 been present in Iraq, Syria, a designated state sponsor of terrorism (currently Iran, Sudan, and Syria),<sup>2</sup> or any other country or area of concern as designated by the Secretary of Homeland Security.<sup>3</sup> A delay in implementation has significant national security implications and would put DHS at risk of not being in compliance with these new requirements.

A significant number of foreign fighters have traveled to Syria over the past four years, including citizens from VWP countries. These fighters are among the cadre of Westerners whom ISIL or other terrorist groups could use for external

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<sup>1</sup> Note that the Form I-94 is not affected by this change.

<sup>2</sup> Countries determined by the Secretary of State to have repeatedly provided support for acts of international terrorism are generally designated pursuant to three laws: section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405); section 40 of the Arms Export Control Act (22 U.S.C. 2780); and section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

<sup>3</sup> The Act establishes exceptions to the bar for travel to Iraq, Syria, Iran, and Sudan since March 1, 2011 for individuals determined by the Secretary of Homeland Security to have been present in these countries, “(i) in order to perform military service in the armed forces of a [VWP] program country; or (ii) in order to carry out official duties as a full time employee of the government of a [VWP] program country.” 8 U.S.C. 1187(a)(12)(B).

operations. These individuals could also be inspired to conduct attacks without direction from terrorist groups. Over the last year, there have been attacks attempted or successfully perpetrated internationally by holders of passports from VWP countries, highlighting the ongoing threat that both former foreign fighters and lone actors inspired by the conflicts in Iraq and Syria pose to Western targets. In particular, the November 2015 Paris attacks were the most lethal to date perpetrated by returned foreign fighters.

DHS has determined that the ESTA application and Form I-94W enhancements will help the Department remain compliant with its legal requirements and for the VWP to adapt to the heightened threat environment as well as the continued increase in the number of foreign fighters from VWP countries participating in the Syria and Iraq conflicts. The previously approved data elements that are currently on the ESTA and Form I-94W applications are included in Attachment A. DHS proposes adding questions to the ESTA application and Form I-94W in accordance with the new restrictions in the VWP Improvement and Terrorist Travel Prevention Act of 2015, as discussed further in this document.

Proposed Changes

DHS requests an emergency approval to revise this information collection to add the following new questions (or revise existing questions as specified below) to the ESTA application and Form I-94W, per the new restrictions in the VWP Improvement and Terrorist Travel Prevention Act of 2015:

Number	Question	Notes
1	Have you traveled to, or been present in, Iraq, Syria, Iran, or Sudan on or after March 1, 2011?	Mandatory (for each instance of travel of presence)
	If yes, must answer the questions below	
	Which country?	Conditional (only seen if answer yes to above), but if answered yes to question above – have to provide and answer)
	What dates?	Conditional (only seen if answer yes to above), but if answered yes to question above – have to provide and answer)
	If yes, what was the primary reason for the visit? <ul style="list-style-type: none"> <li>➤ To travel as a tourist (vacation)</li> <li>➤ For personal travel or a family visit (including emergencies)</li> <li>➤ For commercial/business purposes</li> <li>➤ To carry out official duties as a full-time employee of the</li> </ul>	Conditional (only seen if answer yes to above), but if answered yes to question above – have to provide and answer)

	<p>government of a Visa Waiver Program country</p> <ul style="list-style-type: none"> <li>➤ To carry out official duties on behalf of a sub-national government or body of a VWP country</li> <li>➤ To perform military service in the armed forces of a Visa Waiver Program country</li> <li>➤ To conduct work as a journalist</li> <li>➤ To engage in humanitarian assistance on behalf of a humanitarian or international non-governmental organization</li> <li>➤ To carry out official duties on behalf of an international organization or regional (multilateral or inter-governmental) organization</li> <li>➤ To attend an academic institution</li> <li>➤ To participate in a professional exchange or conference</li> <li>➤ To participate in a cultural exchange program</li> <li>➤ Other [Write-in field]</li> </ul>	
2	Have you ever been issued a passport (or national identity card for travel) by any other country?	Mandatory
	If yes, which country?	Conditional
	If yes, most recent passport or national identity card's year of expiration?	Conditional
	If yes, most recent passport/national identity card number, country of issuance and expiration year?	Conditional (option to enter additional passports or national identity cards)
3	Are you now a citizen or national of any other country?	Mandatory (existing "current citizenship" question, but modified to require response to the next two subsequent questions)
	If yes, other countries of current citizenship or nationality?	Conditional
	If yes, how did you acquire citizenship/nationality from this country? Drop Down: <ul style="list-style-type: none"> <li>o By Birth</li> <li>o Through Parents</li> <li>o Naturalized</li> <li>o Other [write-in field]</li> </ul>	Conditional
4	Have you ever been a citizen or national of any other country?	Mandatory
	If yes, other countries of previous citizenship or nationality?	Conditional
5	You have indicated that you are not a citizen or national of your country of birth. From the list below, please select ALL statements that apply with respect to your country of birth: <ul style="list-style-type: none"> <li>• Did not acquire citizenship at birth or have never held citizenship in birth country</li> <li>• Renounced citizenship of birth country</li> <li>• Have not lived or resided in birth country within the past five years</li> <li>• Have not held a passport or national identity card from birth country within the past five years</li> <li>• Other [Write-in Field]</li> </ul>	Conditional for applicants who identify Iraq, Syria, Iran, or Sudan as their Country of Birth on ESTA, but who do not also identify that country under "Other countries of current citizenship"

DHS requests an emergency approval to revise this information collection to add the following new questions to the ESTA application to permit the adjudications, on a case-by-case basis, of the waiver authority included in the VWP Improvement and Terrorist Travel Prevention Act of 2015. Because potential waivers will only be considered through the ESTA process, these questions will not be included on the I-94W form.

Number	Question	Notes
6	<p>If the applicant answers Yes to “presence in” question, identifies Iran as country, selects “For business purposes” as reason, and identifies a date of travel on or after July 14, 2015:</p> <ul style="list-style-type: none"> <li>• Please identify the company or entity on behalf of which you traveled to Iran for business purposes. [Write-in field]</li> <li>• What was your official position/title with the company or business entity identified? [Write-in field]</li> <li>• If different than your current employer, please provide contact information for the company or business entity identified, including primary address and telephone number. [Write-in field]</li> <li>• Please provide your Iranian Business Visa Number. [Write-in field]</li> <li>• Please list all companies and entities in Iran with which you had business dealings. [Write-in field]</li> </ul>	Conditional
7	<p>If the applicant answers Yes to “presence in” question, identifies Iraq as country, and selects “For business purposes” as reason:</p> <ul style="list-style-type: none"> <li>• Please identify the company or entity on behalf of which you traveled to Iraq for business purposes. [Write-in field]</li> <li>• What was your official position/title with the company or business entity identified? [Write-in field]</li> <li>• If different than your current employer, please provide contact information for the company or business entity identified, including primary address and telephone number. [Write-in field]</li> <li>• Please provide your Iraqi Business Visa Number. [Write-in field]</li> <li>• Please list all companies and entities in Iraq with which you had business dealings. [Write-in field]</li> </ul>	Conditional
8	<p>If the applicant answers Yes to “presence in” question and selects “Humanitarian” as reason:</p> <ul style="list-style-type: none"> <li>• Please identify the organization or entity on behalf of which you traveled to Iraq, Syria, Iran, or Sudan for humanitarian purposes. [Write-in field]</li> <li>• Does your organization or entity have consultative status with the United Nations Economic and Social Council? [Yes, No] [Write-in field]</li> <li>• What was your official position/title with the organization or entity identified? [Write-in field]</li> <li>• If different than your current employer, please provide contact information for the organization or entity identified,</li> </ul>	Conditional

	<p>including primary address and telephone number. [Write-in field]</p> <ul style="list-style-type: none"> <li>• Please provide your Iraqi, Syrian, Iranian, or Sudanese Visa Number related to your humanitarian travel. [Write-in field]</li> <li>• If your organization or entity has been a recipient of U.S. government funding for humanitarian assistance within the last five years, please provide the most recent grant number. [Write-in field]</li> <li>• Please provide us information about the type of work you were doing in country during this time [write-in field]</li> <li>• Please include any information you are willing to share about other NGOs or international, national or state agencies with which you worked. (optional) [Write-in field]</li> <li>• Any additional comments: [ Write-in field]</li> </ul>	
9	<p>If the applicant answers Yes to “presence in” question and selects “International or Regional” or “Sub-National” as reason:</p> <ul style="list-style-type: none"> <li>• Please identify the international (multilateral or intergovernmental) organization or regional (multilateral or intergovernmental) organization, on behalf of which you traveled to Iraq, Syria, Iran, or Sudan.</li> <li>• Please identify the sub-national government or body of a VWP country on behalf of which you traveled to Iraq, Syria, Iran, or Sudan. [Write-in field]</li> <li>• What was your official position/title with the organization or government identified? [Write-in field]</li> <li>• Please provide your Iraqi, Syrian, Iranian, or Sudanese Visa Number related to your official travel on behalf of an international or regional organization, or subnational government. [Write-in field]</li> <li>• Have you ever been issued a G-Visa or A-Visa by a United States Embassy or Consulate [Yes, No]</li> <li>• If “Yes”, please provide your G-Visa or A-Visa number, if known [Write in field]</li> <li>• Have you ever been issued a United Nations Laissez-Passer</li> <li>• If “Yes,” please provide your Laissez-Passer number [Field would ask for number and type of document].</li> </ul>	Conditional
10	<p>If the applicant answers Yes to “presence in” question and selects “Journalism” as reason:</p> <ul style="list-style-type: none"> <li>• Please identify the company, entity, or organization on behalf of which you traveled to Iraq, Syria, Iran, or Sudan to engage in journalism. [Write-in field]</li> <li>• What is your official position with the company, entity, or organization identified? [Write-in field]</li> <li>• Have you ever been issued an I-visa by a United States Embassy or Consulate? [Yes, No]</li> <li>• If Yes—</li> <li>o Please provide your I-visa number, if known. [Write-in field]</li> </ul>	Conditional

As is the case with most questions on the ESTA application, a “?” help information field will be available for these new questions.

Under the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015, the Secretary of Homeland Security may waive these new VWP travel restrictions with respect to an alien if the Secretary determines that such a waiver is in the law enforcement or national security interests of the United States. Whether ESTA applicants will receive a waiver will be determined on a case-by-case basis, in accordance with policy and operations guidance. DHS is currently planning to consider waivers to applicants only through the ESTA process and does not plan to make these waivers available to those who apply for admission under the VWP at land border ports of entry. On January 21, 2016, the Departments of Homeland Security and State announced categories of travelers that provide a framework to administer national security and law enforcement waivers on a case-by-case basis.

The Secretary of Homeland Security will instruct the Commissioner of U.S. Customs and Border Protection (CBP) the waiver authority for identifying travelers who are within one or more of the approved waiver categories. The Commissioner will exercise this authority through a CBP-led interagency cell that will provide waivers based upon verification of the traveler meeting the national security or law enforcement waiver criteria. If the applicant is eligible for a waiver based upon responses to questions, the interagency cell will adjudicate the information to determine if a waiver is to be granted. The waiver process will be built into the ESTA application process. To validate the information provided by the applicant, the interagency cell will utilize various data systems and other government partners. Any changes to the ESTA form to accommodate future discretionary waivers will still require notice-and-comment to be implemented.

These revisions to the ESTA application and Form I-94W will help DHS remain compliant with its legal requirements and for the VWP to adapt to the heightened threat environment as well as the increase in the number of foreign fighters from VWP countries participating in the Syria and Iraq conflicts. The combined totality of existing and newly proposed ESTA data elements will help the U.S. Government meet the requirements of the VWP Improvement and Terrorist Travel Prevention Act of 2015, mitigate the foreign fighter threat, and facilitate lawful travel under the VWP. By requiring ESTA and Form I-94W applicants to provide information about prior presence in, and dual nationality with, one of the four countries listed above, DHS will enhance its ability to identify those ESTA/Form I-94W applicants who may not be eligible to travel to the United States through the VWP under the act. DHS also believes enhancements to ESTA and the Form I-94W will help the Department facilitate adjudication of ESTA applications and I-94W forms.

### Background

ESTA is a web-based application and screening system used to determine whether certain aliens are eligible to travel to the United States under the VWP. Form I-94W, the paper equivalent to ESTA, is used primarily at the land border

for VWP travelers. While the Form I-94 (Arrival/Departure Record), which is different from the Form I-94W, is also a part of this collection, no changes will be made to it. Air and sea passengers from VWP program countries traveling under the VWP are required to receive a travel authorization through ESTA.

ESTA was established pursuant to section 711 of the Secure Travel and Counterterrorism Partnership Act of 2007 (enacted as part of the Implementing Recommendations of the 9/11 Commission Act of 2007, also known as the "9/11 Act," Public Law 110-53). The law required that the Secretary of Homeland Security, in consultation with the Secretary of State, to develop and implement an internet-based system to collect biographical and other information as the Secretary deems necessary in order to determine, in advance of travel, the eligibility of, and whether there exists a law enforcement or security risk in permitting, the alien to travel to the United States.

U.S. Customs and Border Protection (CBP) Forms I-94 (and I-94W) are included in the manifest requirements imposed by section 231 of the Immigration and Nationality Act (INA), as applied in 8 C.F.R. part 231. Under the INA, it is the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft transporting any person to any United States port from any place outside the United States to deliver to CBP manifest information about each passenger, crew member, and other occupant transported on such vessel or aircraft prior to arrival at the United States port. However, CBP now 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 those VWP travelers entering the United States at a land border. Passengers can access and print their electronic I-94 record via the website [www.cbp.gov/I94](http://www.cbp.gov/I94). The provisions permitting electronic transmission are found at 8 C.F.R. 1.4(e).

Aliens traveling under the VWP are required to present a completed and signed Form I-94W as a condition of admission pursuant to 8 C.F.R. § 217.2(b)(1). Aliens traveling in the air or sea environment must receive a travel authorization obtained through ESTA. As ESTA collects the information reflected by the Form I-94W, VWP travelers that have a travel authorization through ESTA are not required to complete the paper Form I-94W. ESTA is not required for VWP travelers at land border crossings; it should be noted that the overwhelming majority of VWP travelers (approximately 99 percent) arrive in the United States by air.

- 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.**

Information on the ESTA application permits DHS to determine whether an alien is eligible to travel to the United States under the VWP, or whether the individual must apply for a visa with the Department of State instead.

To meet the requirements of the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015, DHS is strengthening the security of the VWP through enhancements to the ESTA application and Form I-94W. The inclusion of additional data fields on the ESTA application and Form I-94W will help identify those travelers who are not eligible to travel under the VWP due to the new restrictions contained in the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015. By requiring ESTA and Form I-94W applicants to provide additional information, DHS will improve its ability to identify those applicants who pose a potential security threat to the United States, including known or suspected terrorists. Individuals who are not eligible to travel under the VWP may be eligible to travel to the United States with a valid nonimmigrant visa.

The data collected on CBP Forms I-94/I-94W and on the ESTA application 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, determine the applicability of waivers, 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.

**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 travelers will forgo completing these forms on conveyances). Information about these forms can be found at: <http://www.cbp.gov/travel/international-visitors/i-94-instructions/i94-rollout> and <http://www.cbp.gov/travel/international-visitors/visa-waiver-program>

ESTA is a web-based system that enables DHS to determine whether the individual is eligible to travel to the United States under the VWP. ESTA can be accessed at: <https://esta.cbp.dhs.gov>. Samples of Forms I-94 and I-94W can be found at: <http://www.cbp.gov/document/forms/form-i-94-arrivaldeparture-record> and <http://www.cbp.gov/document/forms/form-i-94w-visa-waiver-arrivaldeparture-record>.

CBP captures Form I-94 data for passengers arriving by air or sea from APIS in lieu of passengers submitting a paper Form I-94. Passengers can access and



print their electronic Form I-94 via [www.cbp.gov/I94](http://www.cbp.gov/I94). This supplements the existing process whereby a passenger who wants 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.**

This information is not duplicated in any other place or any other form.

- 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.**

The new data elements enhance the information previously collected from VWP travelers and allow DHS to remain compliant with its legal requirements and increase identification of those who may not be eligible to enter the United States through the VWP and those who may seek to exploit the VWP or do harm to the United States. Extensive research by DHS and our interagency partners has determined that these additional data elements will increase the ability of the Department to identify these travelers before they attempt to travel to 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.**

Public comments will be solicited and this information collection request will go through a normal PRA approval process, including a response to all comments received from the public, no later than six months after the approval of this emergency request.

**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 Privacy Impact Assessment (PIA) entitled “Electronic System for Travel Authorization (February 4, 2016), a SORN entitled Electronic System for Travel Authorization, and a SORN entitled Non-Immigrant Information System (February 23, 2016, Vol. 81 FR 8979), are included in this information collection request. The PIA and SORN for ESTA have been revised to include the new questions. There is no assurance of confidentiality provided to the respondents.

**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.**

The ESTA application and I-94W form ask respondents if they have certain diseases. This question is to assist CBP in determining admissibility into the United States under U.S. immigration law. All questions directly address the grounds of inadmissibility and criteria for VWP travel eligibility described in sections 212(a) and 217(a), respectively, of the INA. There are no questions on either the ESTA application or Form I-94W that ask about sexual nature and attitudes or religious beliefs, or any other personal information that is outside the scope of the INA.

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

<b>Form/Collection</b>	<b>Number of Respondents</b>	<b>Total Annual Responses</b>	<b>Time Per Respondent (in hours)</b>	<b>Annual Reporting Burden Hours</b>
I-94	4,387,550	4,387,550	0.133 (8 mins)	583,544
I-94 Website	3,858,782	3,858,782	0.066 (4 mins)	254,679
I-94W	941,291	941,291	0.25 (15 mins)	235,323
ESTA burden	23,010,000	23,010,000	0.366 (22 mins)	8,421,660

ESTA fee* (subset of total ESTA respondents)	18,930,000 (subset of 23.01m above)	18,930,000 (subset of 23.01m above)	0.00 (already included in ESTA burden above)	0.00 (already included in ESTA burden above)
<b>TOTAL</b>	<b>32,197,623</b>	<b>32,197,623</b>		<b>9,495,206</b>

\*Note: The 18.93 million respondents paying the \$14.00 fee (\$10 Travel Promotion Act charge plus \$4 ESTA fee) are a subset of the total 23.01 million ESTA respondents. They should not be added to the total respondents (or else they would be double counted).

**Public Cost:**

The estimated annual public cost is **\$708,420,298** 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	\$11,373,275	\$26,325,300	\$0	\$37,698,575
I-94 Website	3,858,782	254,679	\$11,608,269	\$0	\$0	\$11,608,269
I-94W	941,291	235,323	\$4,586,445	\$5,647,746	\$0	\$10,234,191
ESTA burden	23,010,000	8,421,660	\$383,859,263	\$0	\$0	\$383,859,263
ESTA fee	18,930,000		\$0	\$0	\$265,020,000	\$265,020,000
<b>TOTAL</b>			<b>\$411,427,252</b>	<b>\$31,973,046</b>	<b>\$265,020,000</b>	<b>\$708,420,298</b>

\* Recall from the previous table that the burden for Form I-94 is 8 minutes; the burden for the I-94 website is 4 minutes (0.066 hours); the burden for Form I-94W is 15 minutes (0.25 hours); and the burden for ESTA is 22 minutes (0.333 hours). We use the Department of Transportation's guidance on value of travel time for value of time estimates

[http://www.dot.gov/sites/dot.dev/files/docs/vot\\_guidance\\_092811c.pdf](http://www.dot.gov/sites/dot.dev/files/docs/vot_guidance_092811c.pdf) \$19.49 for travel by land (this applies to I-94 and I-94W) and \$45.58 for travel by air and sea (this applies to ESTA and I-94 website).

The tables above reflect the following changes as a result of the new questions for ESTA and Form I-94:

- The average time per response for ESTA was increased from 20 minutes to 22 minutes to allow for the new questions. All respondents will need to answer the

first additional ESTA questions. We estimate that 500,000 applicants will need to answer at least some of the conditional questions. We estimate this based on data on the number of citizens of Iran, Iraq, Sudan, and Syria who currently have ESTA authorizations and limited data on the number of travelers from VWP countries that have been to these 4 countries in the past 5 years. As we begin to receive data from these additional questions, we will have a better estimate of the number of people who answer the conditional questions. We will update this estimate when we submit this information collection for renewal through the usual notice and comment process. We estimate that it will take an additional 15 minutes to respond to the conditional questions and an additional 1 minute to respond to the 4 base questions. Based on the estimated number of respondents to the two groups of questions, we estimate that it will take a weighted average of 22 minutes to respond to ESTA, an increase of 2 minutes;

- The burden hours for ESTA were increased from 7,662,330 to 8,421,660;
- The value of time for ESTA was increased from \$349,949,001 to \$383,859,263;
- The average time per response for Form I-94W was increased from 13 to 15 minutes to allow for the new questions. As the respondents are VWP travelers, just as with ESTA, we estimate the same increase in time burden for the I-94W;
- The burden hours for Form I-94W were increased from 204,260 hours to 235,323 hours;
- The value of time for Form I-94W was increased from \$3,981,030 to \$4,586,445; and
- There are no changes to Form I-94 or the I-94 website.

**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.**

Providing and administering the ESTA system costs the Federal government approximately \$4 per application. These costs are offset by the ESTA user fee, which constitutes a transfer from the ESTA applicant to the government.<sup>4</sup> The estimated collections for the \$4 dollar fee CBP retains for 18,930,000 respondents are \$75,720,000. Any excess collections over the cost to the

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<sup>4</sup> The ESTA user fee is the sum of \$10.00 per application credited to the Travel Promotion Fund and \$4.00 per application available to CBP to recover the costs of administering and providing the system. See 8 U.S.C. 1187(h)(3)

Federal government represents a transfer from the applicant to the government and are recorded as a cost to the public. CBP does not intend to change the ESTA user fee at this time.

Under the new law, the Secretary of Homeland Security may waive the travel eligibility restrictions if he determines that such a waiver is in the law enforcement or national security interests of the United States. DHS will establish a CBP-led interagency cell to adjudicate these waivers, on a case-by-case basis, by reviewing and validating the information provided by the applicant through the ESTA system. This review and adjudication process will increase the costs to the government. In order to meet operational demands, a minimum of ten full-time CBP employees will be needed to review and adjudicate possible waivers during multiple shifts seven days a week. These ten additional full-time CBP employees will cost \$1,146,912 per year. This is calculated by multiplying (x) the number of employees (10) times the number of estimated annual hours (2080) = 20,800 hours multiplied (x) by the estimated average loaded rate of a CBP officer (\$55.14) = \$1,146,912. Other agencies will be consulted during the waiver adjudication process, but no specific costs have been identified for agencies other than DHS. This is an initial estimate and will be refined once CBP has a better understanding of the volume of potential waivers and adjudication time required for each. CBP will monitor the additional costs that result from this change and will report revised ESTA costs when this collection is renewed through the notice and comment process.

Note: \$10.00 of the \$14.00 ESTA fee is a Travel Promotion Act fee that is not related to the costs of ESTA. In fact, this fee is deposited into an account where it is not available to CBP/DHS. CBP is required to collect this fee, alongside the \$4 ESTA fee, by the Travel Promotion Act, as amended. The \$10 fee is a transfer from the traveler to the government and is counted as a cost to the public for the purpose of this collection.

Forms I-94 and I-94W cost the Government \$6.00 to process multiplied (x) by the number of applications filed (5,328,841) for a total of \$31,973,046. These costs are offset by the Forms I-94 and I-94W application fees<sup>5</sup>.

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

The average times per response for the ESTA application was increased from 20 minutes to 22 minutes and the burden hours were increased from 7,662,330 hours to 8,421,660 hours. The average time per response for Form I-94W was increased from 13 minutes to 15 minutes and the burden hours were increased

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<sup>5</sup> Federal statute requires CBP to deposit these two fee collections into the Land Border Inspection Fee Account, where they are then available only for certain, statutorily-enumerated purposes. 8 U.S.C. 1356(q) (2 & 3).

from 204,260 hours to 235,323 hours. There are no changes to Form I-94 or to the I-94 website.

**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 paper forms because large quantities are stocked at CBP ports and by airlines in 22 languages. However, the expiration date is displayed on the ESTA website and on the I-94 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.