DEPARTM[

U.S. Customs and Border Protection

[1651-0111]

Arrival and Departure Record, Nonimmigrant Visa Waiver Arrival/Departure,

Electronic System for Travel Authorization (ESTA)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland

Security.

ACTION: 60-Day Notice and request for comments; Revision of an existing collection of

information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection

will be submitting the following information collection request to the Office of Management

and Budget (OMB) for review and approval in accordance with the Paperwork Reduction

Act of 1995 (PRA). The information collection is published in the *Federal Register* to

obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than [INSERT DATE

60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]) to be assured

of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in

this notice must include the OMB Control Number 1651-0111 in the subject line and the

agency name. Please use the following method to submit comments:

Email: Submit comments to: *CBP_PRA@cbp.dhs.gov*.

Due to COVID-19-related restrictions, CBP has temporarily suspended its ability to

receive public comments by mail.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information

should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S.

Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, D.C. 20229-1177, Telephone number 202-325-0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*.). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Arrival and Departure Record, Nonimmigrant Visa Waiver Arrival/Departure, Electronic System for Travel Authorization (ESTA)

OMB Number: 1651-0111

Form Number: CBP Forms I-94 and I-94W

Current Actions: Revision of an existing information collection

Type of Review: Revision

Affected Public: Individuals

Abstract: Forms I-94 (Arrival/Departure Record) and I-94W (Nonimmigrant Visa Waiver Arrival/Departure Record) are used to document a traveler's admission into the United States. These forms are filled out by non-immigrants and are used to collect information on citizenship, residency, passport, and contact information. The data elements collected on these forms enable the Department of Homeland Security (DHS) to perform its mission related to the screening of noncitizen visitors for potential risks to national security and the determination of admissibility to the United States.

The Electronic System for Travel Authorization (ESTA) applies to non-immigrants seeking to travel to the United States under the Visa Waiver Program (VWP) and requires that VWP travelers provide information electronically to CBP before embarking on travel to the United States without a visa. Travelers who are entering the United States under the VWP in the air or sea environment, and who have a travel authorization obtained through ESTA, are not required to complete the paper Form I-94W. I-94 is provided for by 8 CFR 235.1(h), ESTA is provided for by 8 CFR 217.5.

On December 18, 2015, the President signed into law the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 ("VWP Improvement Act") as part of the Consolidated Appropriations Act, 2016, Pub. L. 114-113, 129 Stat. 2242. To meet the requirements of this new act,

the Department of Homeland Security (DHS, or the Department) strengthened the security of the VWP through enhancements to the ESTA applications and to the Form I-94W, Form I-94 is not affected by this change. Many of the provisions of the new law became effective on the date of enactment of the VWP Improvement Act. The VWP Improvement Act generally makes certain nationals of VWP countries ineligible (with some exceptions) from traveling to the United States under the VWP. To ensure compliance with the VWP Improvement Act, CBP will continuously update the application question with the list of nationals ineligible from traveling to the United States, as designated in accordance with section 217(a)(12) of the Immigration and Nationality Act, as amended (8 U.S.C. 1187(a)(12)).

Recent Changes:

1. Mandatory Social Media Collection:

On May 31, 2019, the Department of State updated its immigrant and nonimmigrant visa application forms to request additional information, including social media identifiers, from most U.S. visa applicants worldwide. In keeping with this change, CBP is amending the ESTA application to change social media collection from optional to mandatory. National security is CBP's top priority when adjudicating ESTA applications, and every prospective traveler to the United States undergoes extensive security screening. CBP is continually working to find mechanisms to improve our screening processes to protect U.S. citizens, while supporting legitimate travel to the United States. CBP already requests certain contact information, travel history and family member information from all ESTA

applicants. Making social media a mandatory field in the ESTA application will enhance our vetting processes and assist in confirming applicants' identities. While the completion of the field is mandatory, applicants can still select "none".

2. Biometric Information Collection:

CBP will begin collecting biometric data for identity confirmation on ESTA applications. ESTA applicants will be prompted to take a selfie or "live" photo to conduct a "liveness" test to determine if the ESTA application is interfacing with a physically present human being and not an inanimate object, or if it is a photo of someone other than the lawful passport holder. Respondents will be able to scan their passport biographic page, in order to submit biographic information, including passport photograph.

3. ESTA Mobile Application (App):

CBP will implement the ESTA Mobile Application to provide an additional and more convenient option for intending VWP travelers to obtain an ESTA. The Mobile App will collect biometric data for confirmation of identity. This is another enhancement that will assist in preventing persons intending to travel to the United States under the VWP by fraud.

This new function will be accessible via mobile devices, i.e., mobile phones, tablets. The portability of mobile devices will facilitate applying for an ESTA application, because an ESTA applicant will not be limited to applying on a desktop computer. The first phase will enable Android devices to use the

ESTA App, and the second phase will follow with iOS. No implementation date has been set for iOS implementation.

The Mobile App will be very similar to the already established ESTA application website at https://esta.cbp.dhs.gov, but with Near Field Communication (NFC).

The NFC:

- Allows users to scan the passport e-Chip (embedded in the passport) to extract passenger data.
- A Mobile Device with NFC capability is required to scan the Passport e-Chip when applying for a new application using the ESTA Mobile App.
- Data on the e-Chip enables the NFC Scan.
- If the mobile device does not have NFC capability, the user can submit an ESTA application via the established website.

After determining if the mobile device has NFC capability:

- The applicant takes a selfie or "live" photo (another person may also take a photo of the applicant).
- The Mobile App will do a "liveness" test to determine that it is interfacing with a physically present human being and not an inanimate object, or if it is a photo of someone other than the lawful passport holder.
- If the passport photo does not match the "liveness' photo, a "Third Party Acknowledgement" screen will display, which requires confirmation.
- The applicant proceeds by completing the data fields the same as with

the established ESTA application.

- When the applicant completes the application, he/she can review his/her responses.

The payment process will be the same as the established ESTA application, and the cost of each ESTA application will continue to be 14 USD, except in the case of a denial, the fee is 4 USD.

Type of Information Collection: I-94

    Estimated Number of Respondents: 4,387,550

    Estimated Number of Annual Responses per Respondent: 1

    Estimated Number of Total Annual Responses: 4,387,550

    Estimated Time per Response: 0.133 hours

    Estimated Total Annual Burden Hours: 583,544

Type of Information Collection: I-94 Website

    Estimated Number of Respondents: 3,858,782

    Estimated Number of Annual Responses per Respondent: 1

    Estimated Number of Total Annual Responses: 3,858,782

    Estimated Time per Response: 0.066 hours

    Estimated Total Annual Burden Hours: 254,679

Type of Information Collection: I-94W

    Estimated Number of Respondents: 941,291

    Estimated Number of Annual Responses per Respondent: 1

    Estimated Number of Total Annual Responses: 941,291

Estimated Time per Response: 0.2667 hours

Estimated Total Annual Burden Hours: 251,042

Type of Information Collection: ESTA Website Application

    Estimated Number of Respondents: 15,000,000

    Estimated Number of Annual Responses per Respondent: 1

    Estimated Number of Total Annual Responses: 15,000,000

    Estimated Time per Response: 0.3833 hours

    Estimated Total Annual Burden Hours: 5,941,150

Type of Information Collection: ESTA Mobile Application (App)

    Estimated Number of Respondents: 500,000

    Estimated Number of Annual Responses per Respondent: 1

    Estimated Number of Total Annual Responses: 500,000

    Estimated Time per Response: 0.2142 hours

    Estimated Total Annual Burden Hours: 1,071,429

Dated: November 15, 2021.

Seth D. Renkema,
Branch Chief, Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

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