

Type of Information Collection: Advance Information on Documented Travelers—Registration.

Estimated Number of Respondents: 20,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 20,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 1,666.

Type of Information Collection: Daily Appointment Request for Undocumented Travelers.

Estimated Number of Respondents: 500,000.

Estimated Number of Annual Responses per Respondent: 60.

Estimated Number of Total Annual Responses: 30,000,000.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 500,000.

Type of Information Collection: Daily Appointment Request for Documented Travelers.

Estimated Number of Respondents: 20,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 20,000.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 333.

Type of Information Collection: Confirmation of Appointment.

Estimated Number of Respondents: 529,250.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 529,250.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 26,463.

Dated: January 7, 2025.

Seth D Renkema,

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

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0111]

Agency Information Collection Activities; Revision; Arrival and Departure Record (Forms I-94, I-94W) and 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.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) 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 March 17, 2025) 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 submit written comments and/or suggestions in English. Please use the following method to submit comments:
Email. Submit comments to: *CBP_PRA@cbp.dhs.gov*.

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, DC 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 and Electronic System for Travel Authorization (ESTA).

OMB Number: 1651-0111.

Form Number: I-94/I-94W.

Current Actions: Revision.

Type of Review: Revision.

Affected Public: Individuals.

Abstract: Travelers seeking to enter under the Visa Waiver Program (VWP) by air or sea, are required to receive a travel authorization through the Electronic System for Travel Authorization (ESTA) prior to travel to the United States. ESTA is a mobile and web-based application and screening system used to determine whether certain noncitizens are eligible to travel to the United States under the VWP in the air, sea, and land environments. Travelers who are not eligible to travel under VWP may apply for a visa at a U.S. Embassy or Consular Office.

ESTA was provided for by the Secure Travel and Counterterrorism Partnership Act of 2007 (section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007, also known as the "9/11 Act," Public Law 110-53) which requires that the Secretary of Homeland Security, in consultation with the Secretary of State, develop and implement an electronic system which shall collect such biographical and other information as the Secretary of Homeland Security determines necessary to determine, in

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

The information collected on U.S. Customs and Border Protection (CBP) Forms I-94 (Arrival/Departure Record) and I-94W (Nonimmigrant Visa Waiver Arrival/Departure Record) are included in the manifest requirements imposed by Section 231 of the Immigration and Nationality Act (INA). CBP previously required noncitizens to prepare these forms while enroute to the United States and presented upon arrival at a sea or air port of entry within the United States. It is the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having any noncitizen on board, to deliver lists or manifests of the persons on board such vessel or aircraft to CBP officers at the port of arrival. However, now 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. Currently, CBP issues electronic I-94s to most nonimmigrants entering the United States at land border ports of entry. Travelers entering the United States at a land border may apply for a provisional electronic I-94 via the I-94 public website. Travelers can access and print their electronic I-94 record via the website <https://i94.cbp.dhs.gov/i94/#/home>. CBP is working to fully automate all I-94 processes. Travelers can access and print their electronic I-94 record via the website www.cbp.gov/i94www.cbp.gov/i94.

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. 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 application and to the Form I-94W.¹ Many of the provisions of the new law became effective on the date of enactment of the VWP Improvement Act. The Act generally makes certain nationals of VWP countries ineligible (with some exceptions) to travel to the United States under the VWP, specifically, if the noncitizen is, at the time of applying for admission, also a national of or has been present at any time on or after March 1, 2022—in Iraq,

Syria, a country that is designated a state sponsor of terrorism,² or any other country of concern as designated by the Secretary of Homeland Security.³ INA section 217(a)(12)(A).

Previous Revision:

Visa Waiver Program Designation (VWP): Qatar

CBP received emergency approval to revise the collection to add Qatar into the VWP.

New Revision:

CBP has calculated the estimated burden for this information collection to account for additional countries added into the Visa Waiver Program over the next three years. Pursuant to section 217 of the Immigration and Nationality Act (INA), 8 U.S.C. 1187, the Secretary, in consultation with the Secretary of State, may designate certain countries as VWP countries if certain requirements are met.⁴ Once a country has met the requirements and been designated by the Secretary as a program country, eligible citizens and nationals of a program country may apply for admission to the United States at U.S. ports of entry as nonimmigrant visitors for a period of ninety days or less for business or pleasure without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission under applicable statutory and regulatory requirements. As an ESTA is required for any travel to the United States under the VWP, the collection is being updated to include travelers from current VWP designated countries and travelers from potentially added designated countries over the next three years.

Additionally, CBP intends to update the ESTA application website to require

² 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 1754(c) of the National Defense Authorization Act for Fiscal Year 2019 (50 U.S.C. 4813); 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).

³ The Act contains exceptions 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.” INA section 217(a)(12)(B).

⁴ All references to “country” or “countries” in the laws authorizing the VWP are read to include Taiwan. See Taiwan Relations Act of 1979, Public Law 96–8, section 4(b)(1) (codified at 22 U.S.C. 3303(b)(1)) (providing that “[w]henver the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan”). This is consistent with the United States’ one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

applicants to provide a photograph of their face, or “selfie”, in addition to the photo of the passport biographical page. These photos would be used to better ensure that the applicant is the rightful possessor of the document being used to obtain an ESTA authorization.

Currently, applicants are allowed to have a third party apply for ESTA on their behalf. While this update would not remove that option, third parties, such as travel agents or family members, would be required to provide a photograph of the ESTA applicant.

The ESTA Mobile application currently requires applicants to take a live photograph of their face, which is compared to the passport photo collected during the ESTA Mobile application process. This change will better align the application processes and requirements of ESTA website and ESTA Mobile applicants.

CBP invites the public to comment on both the previously approved emergency revision and new proposed revisions.

Type of Information Collection: Paper I-94.

Estimated Number of Respondents: 1,782,564.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 1,782,564.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 237,616.

Type of Information Collection: I-94 website.

Estimated Number of Respondents: 91,411.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 91,411.

Estimated Time per Response: 4 minutes.

Estimated Total Annual Burden Hours: 6,094.

Type of Information Collection: I-94W.

Estimated Number of Respondents: 1,138,644.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 1,138,644.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 368,438.

Type of Information Collection: ESTA Mobile Application.

Estimated Number of Respondents: 2,172,611.

Estimated Number of Annual Responses per Respondent: 1.

¹ Note that the Form I-94 is not affected by this change.

Estimated Number of Total Annual Responses: 2,172,611.

Estimated Time per Response: 22 minutes.

Estimated Total Annual Burden Hours: 796,696.

Type of Information Collection: ESTA website.

Estimated Number of Respondents: 12,311,462.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 12,311,462.

Estimated Time per Response: 18 minutes.

Estimated Total Annual Burden Hours: 3,899,040.

Dated: January 8, 2025.

Seth D Renkema,

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

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DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2793-25; DHS Docket No. USCIS-2024-0018]

Notice of DHS's Requirement of the Permanent Labor Certification Final Determination for Form I-140 Petitions

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: The Department of Homeland Security, U.S. Citizenship and Immigration Services, is announcing updated procedures for submitting a Form I-140, Immigrant Petition for Alien Workers, accompanied by a permanent labor certification approval, application for Schedule A designation, or National Interest Waiver request following the U.S. Department of Labor's implementation of the Foreign Labor Application Gateway system.

DATES: This notice is applicable January 14, 2025.

FOR FURTHER INFORMATION CONTACT: Charles L. Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone 240-721-3000 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via

TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act (INA), as amended, established employment-based immigrant visa preference classifications. Specifically, section 203(b) of the INA, 8 U.S.C. 1153(b), makes immigrant visas available to noncitizens who qualify under the following classifications: individuals with extraordinary ability, outstanding professors or researchers, and certain multinational executives and managers (EB-1) under section 203(b)(1) of the INA; individuals who are members of the professions with advanced degrees or of exceptional ability (EB-2) under section 203(b)(2) of the INA; and professionals, skilled workers, and other workers (EB-3) under section 203(b)(3) of the INA.

Sections 204(a)(1)(E) and (F) of the INA, 8 U.S.C. 1154(a)(1)(E) and (F), require individuals or employers to file petitions with DHS when seeking classification under section 203(b)(1), (2), or (3) of the INA. These petitions are filed using Form I-140, Immigrant Petition for Alien Workers.

Permanent Labor Certifications

Section 212(a)(5)(A) of the INA, 8 U.S.C. 1182(a)(5)(A), states that any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is inadmissible, unless the Secretary of Labor has determined and certified to the Secretary of State and Secretary of Homeland Security that:

- there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor; and
- that the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

This provision also sets out special rules for certain members of the teaching profession and for individuals who have exceptional ability in the sciences or the arts. In addition, INA section 212(a)(5)(B), 8 U.S.C. 1182(a)(5)(B), provides separate rules for the admission of unqualified physicians.

Under INA section 212(a)(5)(D), 8 U.S.C. 1182(a)(5)(D), the grounds of inadmissibility in paragraphs (A) and (B) apply to intending immigrants seeking admission or adjustment of status under the EB-2 and EB-3

preference classifications. Accordingly, a Form I-140 petition filed under the EB-2 and EB-3 preference classifications must be accompanied by an approved permanent labor certification, an application for Schedule A designation,¹ or a request for an exemption from the job offer/permanent labor certification requirement, if such an exemption would be in the national interest (National Interest Waiver).² Form I-140 petitions for shepherders filed under 20 CFR 656.16 also do not need to be filed with a DOL-approved permanent labor certification.

The PERM Labor Certification Process Prior to the Foreign Labor Application Gateway System

Before the implementation of the new Foreign Labor Application Gateway (FLAG) system on June 1, 2023, when DOL approved a permanent labor certification application, DOL sent an original approved Form ETA-9089, Application for Permanent Employment Certification, and final determination and letter to the employer, or to the employer's authorized attorney or agent, whichever is applicable. The employer was required to sign and retain a signed copy of the certified Form ETA-9089.³ The employer or its authorized attorney or agent then had to file a Form I-140 petition with USCIS together with the original paper labor certification approval, any other supporting documentation, and the appropriate fees.

Petitioners filing Form I-140 petitions for Schedule A occupations or with National Interest Waiver requests had to submit an uncertified Form ETA-750B (now discontinued), or the Form ETA-9089. In addition, Schedule A employers were required to submit a prevailing wage determination (Form ETA-9141)⁴ and evidence that a notice of filing the Application for Permanent Employment Certification was provided to the bargaining representative or the employer's employees.⁵

Transition of PERM to the New Form ETA-9089 and Foreign Labor Application Gateway System

On Oct. 25, 2022, DOL received approval from the Office of Information and Regulatory Affairs within the Office of Management and Budget for the use of the revised Form ETA-9089, Application for Permanent Employment

¹ 8 CFR 204.5(k)(4)(i), (1)(3)(i).

² 8 CFR 204.5(k)(4)(ii).

³ 20 CFR 656.10(f).

⁴ 20 CFR 656.15(b).

⁵ 20 CFR 656.10(d).