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February 2, 2010

U.S. Customs and Border Protection
Office of Regulations and Rulings
799 9th Street N.W., 7th Floor
Washington D.C. 20229-1177
Attention: Tracey Dennings

**RE: Request for Comments; Extension of an Existing Information Collection
74 Fed. Reg. 64092 (December 7, 2009); OMB Control Number 1651-0111**

Dear Ms. Dennings:

United Air Lines (“United”) hereby submits the following comments related to CBP’s¹ proposed extension of Form I-94 (Arrival/Departure Record) and Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure) pursuant to the Paperwork Reduction Act of 1995. As detailed below, United again urges CBP to discontinue the use and collection of Forms I-94 and I-94W,² for air passengers at least, as this information collection is redundant, costly and no longer serves any demonstrably valid purpose.³

United is a strong partner to CBP and other U.S. government agencies in their border and aircraft security missions, and is involved on a continuing basis in various government data collections involving air passengers and crew members. United serves millions of annual inbound air passengers who are subject to the I-94 or I-94W requirement. Representing these passengers’ interests and those of the company, United opposes extending this information collection. While we have objected previously to an extension of this expensive and redundant data collection, it was hoped that CBP’s failure to act was related to efforts to review and verify the objections we raised.⁴ The latest extension request, however, now demonstrates that our hopes were unwarranted. Given that during the passage of time additional factors have arisen to support the discontinuation of this data collection, we are therefore submitting these comments.

Form I-94 and I-94W Data Collection

As CBP is aware, the I-94 is not a requirement for admission to the United States for all non-immigrants. Indeed, it is worth recalling that the majority of total non-immigrant admissions to the

¹ Common abbreviations are used.

² As United understands, Form I-94 is required for entry to the United States for non-immigrants from all countries other than certain citizens of Mexico and Canada, U.S. citizens, returning resident aliens and aliens with immigrant visas. Form I-94W (Nonimmigrant Visa Waiver Arrival-Departure Form) is required from aliens temporarily entering the United States under the Visa Waiver Program (VWP).

³ The data collection extension request also refers to information collected by CBP in connection with ESTA. United has no comment on the ESTA data collection request also contained in this Notice.

⁴ Previous comments on these issues are attached.

United States do not require an I-94 or I-94W,⁵ a fact which by itself weakens any argument for this continued costly data collection. However, over 30 million of the more than 150 million non-immigrants arriving in the United States, including essentially all who arrive by air, are required to complete Form I-94 or I-94W upon arrival at a U.S. port of entry. These forms solicit specifically: name; date of birth and gender; country of citizenship; passport data; flight number; residence and country of boarding (I-94 only). The I-94 requires city (but not country) of boarding. The I-94 also solicits the place and date of visa issuance. Both forms also seek unverifiable information that is likely frequently unknown or unavailable to the alien, and therefore almost certainly omitted or inaccurate and in fact CBP has informed United that it does not deem absence of this data to be a material misrepresentation: address while in the U.S.; U.S. telephone number; and email address.

In addition, Form I-94W only includes seven questions including whether the intending non-immigrant has a criminal history or a communicable disease. These questions are commonly known collectively as eligibility questions since a negative answer is a likely ground of inadmissibility. Both forms also demand a signature, have a pre-printed admission number and have a stub that the non-immigrant is told to return upon departure from the United States. Copies of these forms are attached.

As noted below, all of this data is also collected from these same non-immigrants under a variety of other requirements imposed on both the non-immigrants and the air carriers on which they arrive. The basis of United's objection is simply that CPB should recognize that the I-94/I-94W forms have outlived their usefulness and have been overtaken by other more efficient data collection requirements. In these circumstances, the Paperwork Reduction Act as well as basic human sense requires that CBP recognize these facts and drop its request for continuation of these redundant data collections.

APIS/APIS Quick Query

As CBP is aware, airlines provide all essential data on the I-94 and I-94W directly to CBP through electronic transmission of Advance Passenger Information System (APIS)/APIS Quick Query (AQQ) data transmission.⁶ As illustrated in the following table, the APIS transmission from the air carrier to CBP contains: full name; citizenship; country of residence; date of birth; passport number; flight number; and U.S. address. The electronic APIS transmission from the air carrier to CBP containing this data alone clearly eliminates the need for Forms I-94 and I-94W.⁷ Moreover, the APIS program transmits this electronic data directly to CBP well prior to passenger arrival in the U.S. port of entry and in an immediately searchable electronic format.⁸ Carriers have argued that the APIS program

⁵ CBP does not require the Form I-94 or I-94W from most Canadian citizens or from Mexican border crossers who hold an alien border crossing card (BCC); these non I-94 admissions to the United States outnumber I-94 admissions by approximately four to one in a recent year according to CBP data.

⁶ Under APIS regulations, commercial aircraft carriers bound for the United States from a foreign port must transmit passenger and crew manifest information to CBP no later than 30 minutes prior to departure to allow CBP to vet such information against government databases, including the terrorist watch list, prior to departure of the aircraft.

⁷ While APIS does not collect and transmit eligibility questions on the I-94W, passengers subject to this form now complete those questions prior to travel through the ESTA program described later.

⁸ According to a November 9, 2009 Washington Post article, DHS says it already can identify noncitizens that leave the country about 93 percent of the time by comparing passenger records of international airliners on arrival and departure. That article went on to describe that officials said they think the rest mostly involve people who leave the country by land or whose names are recorded improperly at some point. See, <http://www.washingtonpost.com/wp-dyn/content/article/2009/11/07/AR2009110703115.html>.

makes the I-94 and I-94W obsolete for at least ten years.⁹ Although CBP does not require that the APIS transmission contain U.S. visa information, air carriers are responsible for verifying valid travel documents, including U.S. non-immigrant visas if required.

Other New and Longstanding Government Data Collection Make the I-94s Redundant

Forms I-94 and I-94W may have once been a useful adjunct to immigration data keeping, and paper was once the only way to collect such data, but even DHS/CBP's predecessor, the Immigration and Naturalization service ("INS"), by the late 1990s acknowledged the problems of manual collection and attempted but failed to automate the manual I-94 program. Especially in recent years, the acceleration of electronic air passenger data collection requirements in addition to APIS underscores that the paper I-94 program is archaic and unnecessary. Non-immigrants subject to the I-94 or I-94W requirement currently provide all of the information solicited on the I-94s in multiple other mandatory data collection pathways that are more reliable and more easily retrieved and sorted. A table detailing selected CBP and Department of State (DoS) airline passenger data collection requirements and their specific data fields illustrates that all data on the I-94 and I-94W is collected earlier and more accurately in other mandatory U.S. government data collections.

I-94/I-94W Passenger Data	APIS	ESTA	Customs Declaration Form 6059B	DoS Non-Immigrant Visa Applications
Name	X	X	X	X
Date of Birth	X	X	X	X
Citizenship	X	X	X	X
Gender	X	X	X	X
Ppt. Data	X	X	X	X
Country of Residence	X	X	X	X
Airline and Flight #	X	X	X	Travel Plans
Visa Data (I-94 only)	carrier	n/a	n/a	n/a
U.S. Address	X	X	X	X
Admissibility Questions	on ESTA or visa app.	X	n/a	X
Signature		X (electronic)	X	X

Clearly these other forms of U.S. government information collection have made I-94 and I-94W redundant.

⁹ "The Immigration and Naturalization Services' Automated I-94 Program", U.S. DOJ, Office of the Inspector General, Pg. 14. <http://www.justice.gov/oig/reports/INS/a0118/au0118.pdf>

The Electronic System for Travel Authorization

While it should be clear that Forms I-94 and I-94W are no longer justified due to APIS data collection alone, another new electronic data collection requirement, the ESTA, now further duplicates data collected in the I-94W. United does not comment here on the burden and value of ESTA data collection as such, or on the planned renewal of that information collection request. We do note, however, that the ESTA electronically collects the identical biographical and eligibility questions as Form I-94W from the very same 18,000,000 individuals annually,¹⁰ those applying to enter the United States under the Visa Waiver Program (“VWP”). These electronic data are available to CBP without the need for processing from paper forms. CBP has estimated the ESTA data collection burden at 15 minutes per passenger, and has estimated its total costs to travelers alone of \$1.1- to \$3.5 billion over the program’s first ten years¹¹ with additional costs to air carriers of up to \$1 billion over that period.¹²

The multi-billion dollar cost of just the ESTA program demands that CBP seek efficiencies for the passengers and carriers subject to the burden of ESTA. In fact, CBP has acknowledged that it is empowered to and even promised to eliminate Form I-94W as a result of the ESTA.¹³ United understands that CBP is conducting a limited pilot program testing the possible elimination of Form I-94W (but, critically, not Form I-94) and applauds this limited effort while continuing to ask CBP to eliminate both forms immediately.

U.S. Customs Form 6059B

In addition to APIS and ESTA, CBP also collects passenger data at the U.S. port of entry through U.S. Customs Declaration Form 6059B (“Form 6059B”). Each arriving family completes Customs Form 6059B, including all of those subject to I-94 or I-94W requirements. That CBP form requires the intending non-immigrant—who has already (1) completed the I-94 or I-94W, (2) had biographic data transmitted to CBP through the APIS program, and (3) pre-applied for entry to the United States using the ESTA or successfully applied for a U.S. visa – to yet again provide the same biographic and travel data. As shown in the table, Customs Form 6059B includes (again) U.S. address; passport country of issuance; country of residence; and airline flight number as well as responses to customs questions.

It is unacceptable that years after the unification of the former U.S. Immigration and Naturalization Service and the U.S. Customs Service, CBP still requires intending non-immigrants arriving by air to complete both the I-94 or I-94W (with a eight minute data collection estimate) and Form 6059B (which CBP estimates as five minute data collection burden). Eliminating the redundant Forms I-94 and I-94W and, if necessary, updating Customs Form 6059B to collect any data that CBP can justify as

¹⁰ 74 Fed. Reg. 64092.

¹¹ 73 Fed. Reg. 32440, 32449.

¹² Id. at 32445.

¹³ Id. at 32443. “The development and implementation of the ESTA program will eventually allow DHS to eliminate the requirement that VWP travelers complete an I-94W prior to being admitted to the United States. As DHS moves towards elimination of the I-94W requirement, a VWP traveler with a valid ESTA authorization will not be required to complete the paper Form I-94W when arriving on a carrier that is capable of receiving and validating messages pertaining to the traveler's ESTA status as part of the traveler's boarding status. Once all carriers are capable of receiving and validating messages pertaining to the traveler's as part of the traveler's boarding status, DHS will eliminate the I-94W requirement.”

essential and of incremental value exceeding collection costs would help CBP to fulfill its promise of more efficient federal inspections as a result of unification of the inspection services.

Department of State Non-immigrant Visa Applications Also Collect Biographic and Travel Data

The data collection in U.S. Department of State non-immigrant visa application process further reveals the redundancy of Form I-94. For the almost 14,000,000¹⁴ annual non-immigrants who apply to enter the United States who are not eligible for entry under the VWP, the Department of State's U.S. non-immigrant visa forms (Forms DS-156, -157 and -158, among others) include biographic and passport information; address in the United States; admissibility questions; intended date of arrival in the United States and travel plans. The Department of State is in the process of replacing the paper non-immigrant visa application forms with electronic forms, at least potentially making such data yet more accessible.

U.S. Visitor and Immigrant Status Indicator Technology Program ("U.S. - VISIT")

Since 2004, DHS's U.S.-VISIT program has collected biometrics—digital fingerprints and photographs—to protect against identity theft and fraud. All nonimmigrants subject to the I-94 and I-94W requirements also provide a biometric upon arrival in the United States, further adding to the security of U.S. borders and reducing fraud, while highlighting the fact that the I-94 requirement has been overtaken by more secure and rapid means of collecting data from nonimmigrants.

Signatures

Forms I-94 and I-94W require a physical signature. It would be difficult to credit that a government need for physical signature alone might justify the continued I-94/I-94W program, especially (1) as most nonimmigrants enter the United States without completing these forms, (2) as the ESTA application and electronic U.S. visa applications permit electronic signature and (3) as CBP has promised that it would eliminate the I-94W when ESTA is fully implemented.

Visitors Entering by Land and Sea Borders

United's comments address primarily data collection for non-immigrants entering the United States by air ports of entry. If CBP does not believe that existing data collection for land and/or sea arrivals and departures makes it possible to eliminate the I-94 and I-94W requirement for non-immigrants using these modes, United asks that CBP at least eliminate the forms for the millions of nonimmigrants who enter the United States by air.¹⁵ Given the relatively small share of nonimmigrants who arrive in the United States by air and depart by land or sea (or the reverse), and as CBP has acknowledged the particular difficulty of matching entry/exit records for such individuals (which itself suggests that CBP

¹⁴ Id.

¹⁵ In correspondence dated April 4, 2008 with United, in response to United's previous request for the elimination of these forms, Mr. Paul Morris, CBP ED Admissibility and Passenger Programs stated that, "...to maintain a layered approach used to prevent the entry of possible terrorists, CBP must maintain the paper arrival/departure records until such time as advanced arrival information is available on all travelers attempting to enter the United States. This would include advance information on those arriving via rail, bus, ferry and private vehicle." Accepting for argument's sake that government retention of the paper I-94 is important to anti-terrorism, CBP does not justify why air passengers should bear the burden of the I-94 program merely because pre-arrival information is not, and never will be, possible for land and sea arrivals.

relies more on airline data transmissions than on paper forms to match entry and exit) it would be difficult to imagine that CBP might justify the continuation of the I-94 program on the asserted need to match records for individuals who arrive by one mode and depart by another.

I-94 Data is Error Prone

In addition to other reasons to eliminate Forms I-94 and I-94W, the paper based, manual collection procedure for these forms is an inherently unreliable and costly method to collect passenger information. To be useable and searchable, the data on these forms must be entered into electronic databases, an additional, time-consuming and expensive step which CBP excludes from its cost estimate below. Indeed, United has yet to see an explanation of the incremental benefit of and uses of this data over and above other more modern data collection.

Cost Burden

By CBP's own estimates in the present Notice, the public burden of data collection imposed by Forms I-94 and I-94W imposes an annual cost on the public of \$196,000,000. This estimate excludes air carrier costs of a bare minimum of \$15,000,000 industry-wide.¹⁶ We assume that costs to the government, noted above, for possible data entry, storage and destruction are also high and that the government burden to enter the I-94 and I-94W data in an electronic database, if indeed that ever happens, must be on the order of magnitude of the public burden (if not even higher).

Traveler Time Burden

As noted above, the estimated burden of the I-94 and I-94W data collection is eight minutes; the most common DS non-immigrant visa form has a burden of one hour, the (alternative) ESTA data collection is estimated at 15 minutes and Customs 6059B is estimated to take five minutes to complete. Therefore non-immigrants who apply for U.S. visas spend an estimated 73 minutes to provide the U.S. government with biographic and travel information. Visa waiver passengers' data collection burden is 28 minutes according to CBP estimates. The current Notice implicitly calculates the value of these individuals' time at \$45.11 per hour making the cost of data collection alone between \$21 and \$55 per passenger, excluding visa application and any other fees. While CBP clearly must collect data about non-immigrants seeking to enter the United States, it must also ensure that it performs this responsibility efficiently, without unnecessarily burdening travelers and air carriers.

Conclusion

The Paperwork Reduction Act (PRA) is intended to:

Coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public...¹⁷

¹⁶ This estimate is based on generalizing to the industry data obtained in a study of United's Customer Service Representatives' time spent collecting and accounting for the forms, but excludes the costs to United and other carriers of printing, stocking, transporting onboard and explaining the data collection to passengers before and after flight.

¹⁷ 44 USC Sec. 3501

The PRA speaks directly to CBP's current misguided proposed renewal of an existing collection for Form I-94 and I-94W. Consonant with the PRA's direction and based on the foregoing discussion, United respectfully renews its request that CBP withdraw its request for extension of the I-94 and I-94W information collection. It does not appear that CBP's statutory duties would be harmed by eliminating these forms since CBP can (and does today) readily rely on other existing forms of data collection, especially those that it has implemented in the past several years in cooperation with and at billions of dollars of expense to the air carrier industry and international air travelers.

Please feel free to contact me if you have any questions related to this comment letter or require further information.

Sincerely,

A handwritten signature in cursive script that reads "Mary Barnicle".

Mary M. Barnicle
Manager, Alliances, International and Regulatory
Affairs

Attachments: Previous filings and correspondence re: Forms I-94 and I-94W
DHS/CBP Form I-94, I-94W and 6059B

cc: Office of Management and the Budget, DHS Desk Officer

**BEFORE
UNITED STATES CUSTOMS AND BORDER PROTECTION
DEPARTMENT OF HOMELAND SECURITY
WASHINGTON, DC**

In the matter of

**PROPOSED COLLECTION;
COMMENT REQUEST;
ARRIVAL AND DEPARTURE RECORD
(FORMS I-94 AND I-94W)
NOTICE**

Docket No. E7-21968

COMMENTS OF UNITED AIRLINES, INC.

United Air Lines (“United”) hereby submits the following comments in response to the Department of Homeland Security (“DHS”) Bureau of Customs and Border Protection (“CBP”) proposal to extend the use and collection of the Forms I-94/I-94W (“the Forms”). (OMB Control Number 1651-0111) 72 Fed. Reg. at 63622 (November 9, 2007).¹ United is a member of the Air Transport Association (“ATA”) the International Air Transportation Association (“IATA”) and endorses the views of those organizations in this matter. United performs substantial international operations serving individuals subject to the I-94/I-94W requirement and carries out responsibilities related to this information collection, giving it a direct interest in this issue.

The company supports the efforts of the CBP and other Directorates within the DHS to protect national and border security and has worked closely with the DHS to realize these goals. As further detailed below, however, United believes that DHS/CBP should eliminate the I-94/I-94W data collection request entirely. If DHS/CBP determines not to eliminate the Forms, at a minimum it should not expand them to include the two proposed additional data fields of email address and telephone number. DHS/CBP must also clarify the number of individuals subject to this information collection to ensure that its burden estimates are correct.

CBP Must Justify Proposed New Data Collection

Nowhere in the Notice does DHS/CBP justify the need for or the intended use of the proposed new data fields of email address and telephone number that it seeks to add to the Forms. In fact, it is not clear whether DHS/CBP intends to make these fields mandatory, or even if it could do so as not every passenger has an email address and/or a telephone number. Does DHS/CBP propose to refuse entry to or exit from the United States to individuals who fail to provide this data? In any event, it would be impossible for DHS or any other party to verify the data that individuals would provide in these proposed new data fields, which leads United to question the value of this information collection, even setting other concerns aside. This additional information collection request should not move forward until DHS/CBP states the rationale for its proposal. In addition, interested parties should be afforded an opportunity to

¹ United previously submitted comments to the Department urging the discontinuation of Form I-94 in view of its implementation of the United States Visitor and Immigrant Status Indicator Technology Program. See Implementation of the United States Visitor and Immigrant Status Indicator Technology Program—Interim Final Rule (“US-VISIT”), 69 Fed. Reg. 468 (January 5, 2004).

comment on this proposed supplementary information once DHS/CBP has provided the reason for this additional information collection burden.

CBP Must Confirm the Number of Respondents

United also asks for clarification about the number of individuals subject to this information collection request prior to further consideration of this proposal. While the Notice states that the estimated number of respondents is 17,924,380, publicly available DHS data notes that I-94 admissions in fiscal year 2006 was almost double that figure, 33.7 million.² The number of international arrivals to the United States has increased over the past year. If the number of respondents upon which DHS/CBP based its estimate of annual burden hours and cost to the public of the proposed collection is understated, its estimates of burden and costs would need to be revised, perhaps as much as doubled, merely to account for the number of I-94 arrivals. Given what seem to be discrepancies between the data in the notice and other DHS/CBP sources, United asks that DHS clarify the number of individuals subject to this request and to provide an opportunity for additional comment should that data be meaningfully different from the figure in the Notice.

Request Understates Costs by Ignoring the Full Burden of Data Collection

In estimating the burden of this information collection, DHS/CBP fails to even mention, much less attempt to quantify, the burden on airlines to stock, distribute, explain to passengers, collect at the point of departure and ultimately transmit to DHS tens of millions of Forms I-94/I-94W annually. United estimates that six percent of its customer service representatives' time is spent on these tasks, driving personnel costs in the millions of dollars annually for United alone. The burden of explaining the data required will increase should CBP expand the Forms to require additional data. Clearly, this data collection also imposes burdens on the Federal Government, particularly at space- and personnel-constrained Federal Inspections Services facilities at air ports of entry. While DHS/CBP need not include those estimates in this Notice, those costs are relevant in considering the overall costs of perpetuating the I-94/I-94W requirement, especially in view of its redundancy as explained below.

As a Paper Form in an Electronic World, the I-94/I-94W is Obsolete

The development of newer, largely electronic passenger information collection requirements discussed below has made the I-94/I-94W not just redundant, but obsolete. The I-94/I-94W's paper format makes it a less reliable, more costly and, in all likelihood, practically unsearchable source of data; in short, the I-94/I-94W is likely the data source of last resort. The frequency with which completed Forms I-94 change hands underscores their vulnerability to loss and human error: the passenger completes the form by hand, retains a receipt, and, if he has not lost the Form, returns it to the airline Customer Service Representative upon departure from the United States. The airline employee annotates the Forms, manually counts and bundles them and submits them to the DHS. Publicly available information indicates that a contractor receives the information which is meant to be matched to identify visa overstay; United has no direct knowledge of any steps which may be taken by the contractor or government officials to effect

² DHS Office of Immigration Statistics, Policy Directorate, "Temporary Admission of Nonimmigrants to the United States; 2006." http://www.dhs.gov/xlibrary/assets/statistics/publications/Ni_FR_2006_508_final.pdf

such matching. We do know that the Government Accountability Office has criticized data quality obtained through this program on a number of occasions.³

CBP Should Eliminate the I-94/I-94W

Finally, and most importantly, United uses this opportunity to reiterate a request that it has made on several occasions to DHS/CBP and the Office of Management and the Budget (“OMB”), namely to discontinue the Forms I-94/I-94W data collection entirely. United has three reasons for this request. First, at least five existing information collection procedures already provide DHS/CBP and other U.S. agencies with the same information collected by the present Forms. Second, as noted above, the fact that the Forms collect data manually means that the data is vulnerable to delays and human error and difficult to search, likely making them the data source of last resort. Third, and as a result, this information collection imposes hundreds of millions of dollars of unnecessary costs on the traveling public and on air carriers.

As DHS/CBP is aware, a double-digit share of non-U.S. citizen visitors to the United States must complete either Form I-94 or Form I-94W upon arrival to the United States and must return the Forms upon departure from the country. Among other data, the Forms solicit full name, country of citizenship, date of birth, passport number, airline flight number, address and country of residence. Due to new types of U.S. government electronic information collection, the data collected in the Forms is now redundant to information collected from air passengers in at least five existing U.S. government information collection procedures: Advance Passenger Information System (“APIS”)⁴; U.S. Customs Form 6059b; the U.S. VISIT program; CBP passenger name record (“PNR”) access; and U.S. non-immigrant visa applications (Form DS-156).

Since 2002, airlines have electronically transmitted APIS information to the CBP within 15 minutes of every international flight’s departure, including data on all passengers subject to the I-94/I-94W requirement. APIS contains the same fundamental information required in the current Form I-94/I-94W: full name, country of citizenship, date of birth, passport number, and airline flight number. APIS also includes country of residence and U.S. address for passengers on flights inbound to the United States. Additionally, DHS/Transportation Security Agency (TSA) has also published a proposed rule regarding another automated air passenger information collection system, Secure Flight, which will also capture a number of biographic and flight-related data regarding each air passenger, likely including a number of elements on the Forms.

While CBP’s access to APIS data alone should be sufficient argument for eliminating the Forms, at least for air passengers, all visitors who complete the Forms also provide much of the

³ In Congressional testimony on October 16, 2003, Nancy Kingsbury, Managing Director, Applied Research and Methods, GAO stated regarding the I-94: “Over the years, our work has shown that there are significant weaknesses in the system that make it difficult, if not impossible, to actually confirm departure or to identify or track foreign visitors who overstay...once here, a visitor may have his or her period of admission extended or immigration status changed and these changes are not updated or integrated with the data on arrivals and departures. Third, even when forms are filled out, the information provided on arrival, such as destination address, is often not accurate at the outset or not reliable because it changes and is not updated. And fourth, collection of departure forms is incomplete, so confirmation of departure is unreliable.”

⁴ The electronic submission of APIS stems from the President signing into law the Aviation and Transportation Security Act (“ATSA”), Public Law 107-71, 115 Stat. 597, Section 115 of the ATSA, amending 49 U.S.C. Section 44909 (November 29, 2001), implemented in 19 C.F.R. Section 122.49a

same data when they complete U.S. Customs Form 6059b. Additionally, the CBP's U.S. VISIT program collects biographic data from arriving international visitors, including those subject to the I-94/I-94W requirement.⁵ CBP also enjoys access to air passenger name records, which almost uniformly contain readily accessible electronic data that includes and goes beyond that required in the Forms. Finally, a large share of visitors subject to the I-94 requirement also complete U.S. non-immigrant visa applications (Form DS-156) which collects home address, email address and multiple telephone numbers. A possible future data collection for all visitors who do not require non-immigrant visas, known as the Electronic Travel Authorization, is also envisioned to collect biographic data and might well pose admissibility questions redundant with the I-94W.

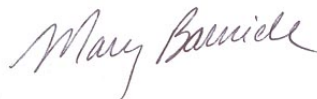
While the I-94 program's benefits are unknown, the costs are clearer. By CBP's own assessment in this Notice, the I-94/I-94W requirement carries a data collection burden on individuals of over two million hours and in excess of \$120 million, United believes that these figures are substantially understated, possibly by undercounting affected passengers and certainly by excluding costs to air carriers.

Comment [MMB1]:

For the foregoing reasons, United respectfully urges the CBP to withdraw its request to revise the existing information collection request 1651-0111 (Forms I-94 and I-94W). We further urge CBP to eliminate the I-94/I-94W data collection requirement altogether and would be pleased to cooperate with CBP to find a workable approach to any passenger data needs it might have that are not addressed through other data collection. Additionally, we ask that OMB deny any future CBP information collection renewal request regarding the Forms as United has urged over several years at every available opportunity.

The perpetuation of the I-94/I-94W is an example of the tyranny of the *status quo*. United believes that today the I-94 does not meet the cost-benefits test. It should be eliminated, not expanded or perpetuated in an attempt to revive its relevance.

Respectfully submitted,



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December 28, 2007

⁵ US-VISIT stores a passenger's arrival and departure records in the Arrival/Departure Information System (ADIS), which allows DHS to confirm whether an individual has complied with the admission terms of his or her visa. ADIS data is constantly updated and allows for comparison of arrival and departure biographical manifest data provided by airlines.

Welcome to the United States
I-94 Arrival/Departure Record

Instructions

This form must be completed by all persons except U.S. Citizens, returning resident aliens, aliens with immigrant visas, and Canadian Citizens visiting or in transit.

Type or print legibly with pen in ALL CAPITAL LETTERS. Use English. Do not write on the back of this form.

This form is in two parts. Please complete both the Arrival Record (Items 1 through 17) and the Departure Record (Items 18 through 21).

When all items are completed, present this form to the CBP Officer.

Item 9 - If you are entering the United States by land, enter LAND in this space. If you are entering the United States by ship, enter SEA in this space.

U.S. Customs and Border Protection Notice: Information collected on this form is required by Title 5 of the U.S. Code, including the INA (8 U.S.C. 1101-1187), and 19 U.S.C. 1401, and CBP (19 U.S.C. 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 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3360, 3361, 3362, 3363, 3364, 3365, 3366, 3367, 3368, 3369,

Welcome to the United States

I-94W Nonimmigrant Visa Waiver Arrival/Departure Record

This form must be completed by every nonimmigrant visitor not in possession of a visitor's visa, who is a national of one of the countries enumerated in 8 CFR 217. The airline can provide you with the current list of eligible countries.

Type or print legibly with pen in ALL CAPITAL LETTERS USE ENGLISH

This form is in two parts. Please complete both the Arrival Record (items 1 through 15) and the Departure Record (items 18 through 21). The reverse side of this form must be signed and dated. Children under the age of fourteen must have their form signed by a parent or guardian.

Item 9 - If you are entering the United States by land, enter **LAND** in this space.
If you are entering the United States by ship, enter **SEA** in this space.

3-1 (F, C, S, E, and J) Privacy Act Notice: Information collected on this form is copied by Title 8 of the U.S. Code, including the INA (8 U.S.C. 101b, 101b-2, and 8 U.S.C. 2351, 264, and 12351). The purposes for this collection are to give the terms of admission and document the arrival and departure of nonimmigrant aliens to the U.S. The information collected on this form may be made available to other government agencies for law enforcement purposes or to assist DHS in determining your admissibility. All nonimmigrant aliens seeking admission to the U.S., unless otherwise exempted, must provide this information. Failure to provide this information may deny you entry to the United States and result in your removal.

Admission Number
020592817 22

Arrival Record
VISA WAIVER

1. Family Name	
2. First (Given) Name	3. Birth Date (DD/MM/YY)
4. Country of Citizenship	5. Sex (Male or Female)
6. Passport Issue Date (DD/MM/YY)	7. Passport Expiration Date (DD/MM/YY)
8. Passport Number	9. Airline and Flight Number
10. Country Where You Live	11. City Where You Boarded
12. Address While in the United States (Number and Street)	
13. City and State	
14. Telephone Number in the U.S. Where You Can be Reached	
15. Email Address	
<u>Government Use Only</u>	
16.	17.

CBP Form I-94W (05/08)

CMB No. 1051-0111

Admission Number
020592817 22

Departure Record
ISA WAIVER

18 Family Name		
19 First Given Name		
20 Birth Date (DD/MM/YY)		
21 Country of Citizenship		

CEP Form 1-04W (a)5/08

ce Other Side

STAPLE HERE

Do any of the following apply to you? (Answer Yes or No)

- A. Do you have a communicable disease; physical or mental disorder, or are you a drug abuser or addict? ☐ Yes ☐ No
- B. Have you ever been arrested or convicted for an offense or crime involving moral turpitude or a violation related to a controlled substance; or been arrested or convicted for two or more offenses for which the aggregate sentence to confinement was five years or more; or been a controlled substance trafficker; or are you seeking entry to engage in criminal or immoral activities? ☐ Yes ☐ No
- C. Have you ever been or are you now involved in espionage or sabotage; or in terrorist activities; or genocide; or between 1933 and 1945 were involved, in any way, in persecutions associated with Nazi Germany or its allies? ☐ Yes ☐ No
- D. Are you seeking to work in the U.S.; or have ever been excluded and deported; or been previously removed from the United States; or procured or attempted to procure a visa or entry into the U.S. by fraud or misrepresentation? ☐ Yes ☐ No
- E. Have you ever detained, retained or withheld custody of a child from a U.S. citizen granted custody of the child? ☐ Yes ☐ No
- F. Have you ever been denied a U.S. visa or entry into the U.S. or had a U.S. visa cancelled? If yes, _____ where? _____ ☐ Yes ☐ No
- G. Have you ever asserted immunity from prosecution? ☐ Yes ☐ No

IMPORTANT: If you answered "Yes" to any of the above, please contact the American Embassy **BEFORE** you travel to the U.S. since you may be refused admission into the United States.

Family Name (Please print)	First Name
Country of Citizenship	Date of Birth

WAIVER OF RIGHTS: I hereby waive any rights to review or appeal of a U.S. Customs and Border Protection officer's determination as to my admissibility, or to contest, other than on the basis of an application for asylum, any action in deportation.

CERTIFICATION: I certify that I have read and understand all the questions and statements on this form. The answers I have furnished are true and correct to the best of my knowledge and belief.

Signature _____ Date _____

Paperwork Reduction Act Statement: An agency may not conduct or sponsor an information collection and a person is not required to respond to this information unless it displays a current valid OMB control number. The control number for this collection is 1651-0111. The estimated average time to complete this application is 8 minutes per respondent. If you have any comments regarding the burden estimate you can write to U.S. Customs and Border Protection, Asset Management, 1300 Pennsylvania Avenue, NW, Washington DC 20229.

Departure Record

Important - Retain this permit in your possession; you must surrender it when you leave the U.S. Failure to do so may delay your entry into the U.S. in the future.

You are authorized to stay in the U.S. only until the date written on this form. To remain past this date, without permission from Department of Homeland Security authorities, is a violation of the law.

Surrender this permit when you leave the U.S.

- By sea or air, to the transportation line;
- Across the Canadian border, to a Canadian Official;
- Across the Mexican border, to a U.S. Official.

Warning: You may not accept unauthorized employment; or attend school; or represent the foreign information media during your visit under this program. You are authorized to stay in the U.S. for 90 days, or less. You may not apply for: 1) a change of nonimmigrant status; 2) adjustment of status to temporary or permanent resident, unless eligible under section 201(b) of the INA; or 3) an extension of stay. Violation of these terms will subject you to deportation. Any previous violation of this program, including having previously overstayed on this program without a proper DHS authorization, will result in a finding of inadmissibility as outlined in Section 217 of the Immigration and Nationality Act.

Port: .

Date:

Carrier:

Flight No./Ship Name:

front

(back)



Customs Declaration

19 CFR 122.27, 148.12, 148.13, 148.110, 148.111, 1498; 31 CFR 5316

FORM APPROVED
OMB NO. 1651-0009

Each arriving traveler or responsible family member must provide the following information (only ONE written declaration per family is required):

1. **Family Name**

First (Given)

Middle

2. **Birth date** Day Month Year

3. **Number of Family members** traveling with you

4. (a) **U.S. Street Address** (hotel name/destination)

(b) City

(c) State

5. **Passport issued by** (country)

6. **Passport number**

7. **Country of Residence**

8. **Countries visited** on this trip prior to U.S. arrival

9. **Airline/Flight No. or Vessel Name**

10. The primary purpose of this trip is **business**: Yes No

11. I am (We are) bringing

(a) fruits, vegetables, plants, seeds, food, insects: Yes No

(b) meats, animals, animal/wildlife products: Yes No

(c) disease agents, cell cultures, snails: Yes No

(d) soil or have been on a farm/ranch/pasture: Yes No

12. I have (We have) been in close proximity of (such as touching or handling) **livestock**: Yes No

13. I am (We are) carrying **currency or monetary instruments** over \$10,000 U.S. or foreign equivalent: Yes No
(see definition of monetary instruments on reverse)

14. I have (We have) **commercial merchandise**: Yes No
(articles for sale, samples used for soliciting orders, or goods that are not considered personal effects)

5. **Residents** — the **total value** of all goods, including commercial merchandise I/we have purchased or acquired abroad, (including gifts for someone else, but not items mailed to the U.S.) and am/are bringing to the U.S. is: \$

Visitors — the **total value** of all articles that will remain in the U.S., including commercial merchandise is: \$

Read the instructions on the back of this form. Space is provided to list all the items you must declare.

HAVE READ THE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS FORM AND HAVE MADE A TRUTHFUL DECLARATION.

X
(Signature) _____ Date (day/month/year) _____

or Official Use Only

(front)

U.S. Customs and Border Protection Welcomes You to the United States

U.S. Customs and Border Protection is responsible for protecting the United States against the illegal importation of prohibited items. CBP officers have the authority to question you and to examine you and your personal property. If you are one of the travelers selected for an examination, you will be treated in a courteous, professional, and dignified manner. CBP Supervisors and Passenger Service Representatives are available to answer your questions. Comment cards are available to compliment or provide feedback.

Important Information

U.S. Residents — Declare all articles that you have acquired abroad and are bringing into the United States.

Visitors (Non-Residents) — Declare the value of all articles that will remain in the United States.

Declare all articles on this declaration form and show the value in U.S. dollars. For gifts, please indicate the retail value.

Duty — CBP officers will determine duty. U.S. residents are normally entitled to a duty-free exemption of \$800 on items accompanying them. Visitors (non-residents) are normally entitled to an exemption of \$100. Duty will be assessed at the current rate on the first \$1,000 above the exemption.

Agricultural and Wildlife Products — To prevent the entry of dangerous agricultural pests and prohibited wildlife, the following are restricted: Fruits, vegetables, plants, plant products, soil, meat, meat products, birds, snails, and other live animals or animal products. Failure to declare such items to a Customs and Border Protection Officer/Customs and Border Protection Agriculture Specialist/Fish and Wildlife Inspector can result in penalties and the items may be subject to seizure.

Controlled substances, obscene articles, and toxic substances are generally prohibited entry.

Thank You, and Welcome to the United States

The transportation of currency or **monetary instruments**, regardless of the amount, is legal. However, if you bring in to or take out of the United States more than \$10,000 (U.S. or foreign equivalent, or a combination of both), you are required by law to file a report on FinCEN 105 (formerly Customs Form 4790) with U.S. Customs and Border Protection. Monetary instruments include coin, currency, travelers checks and bearer instruments such as personal or cashiers checks and stocks and bonds. If you have someone else carry the currency or monetary instrument for you, you must also file a report on FinCEN 105. Failure to file the required report or failure to report the **total** amount that you are carrying may lead to the seizure of **all** the currency or monetary instruments, and may subject you to civil penalties and/or criminal prosecution. **SIGN ON THE OPPOSITE SIDE OF THIS FORM AFTER YOU HAVE READ THE IMPORTANT INFORMATION ABOVE AND MADE A TRUTHFUL DECLARATION.**

Description of Articles

(List may continue on another CBP Form 6059B)

Value

CBP
Use Only

Total

PAPERWORK REDUCTION ACT NOTICE: The Paperwork Reduction Act says we must tell you why we are collecting this information, how we will use it, and whether you have to give it to us. The information collected on this form is needed to carry out the Customs, Agriculture, and currency laws of the United States. CBP requires the information on this form to insure that travelers are complying with these laws and to allow us to figure and collect the right amount of duty and tax. Your response is mandatory. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a valid OMB control number. The estimated average burden associated with this collection of information is 4 minutes per respondent or record keeper depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to U.S. Customs and Border Protection, Reports Clearance Officer, Information Services Branch, Washington, DC 20229, and to the Office of Management and Budget, Paperwork Reduction Project (1651-0609), Washington, DC 20503. **THIS FORM MAY NOT BE REPRODUCED WITHOUT APPROVAL FROM THE CBP FORMS MANAGER.**

CBP Form 6059B (10/07)

(back)