

Customs and Border Patrol Announces New Paperless Form I-94, with Implications for Employers

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On March 27, 2013, the Customs and Border Patrol (CBP) issued a [final interim rule](#) describing its plans for introduction of a new, electronic Form I-94 Arrival/Departure Record for use at sea and air ports of entry. The Form I-94 is completed by all individuals lawfully entering the United States, and can be used by such individuals as evidence of alien registration, immigration status, and/or employment authorization. The paperless Form I-94 will be phased in at air and sea ports of entry beginning on April 30, 2013; individuals entering by land will continue to utilize paper Forms I-94.

Under the new system, foreign nationals lawfully entering the U.S. by sea or by air will no longer complete a paper Form I-94 while en route to the U.S. Instead, traveler information already being sent to CBP by individual air and sea carriers and by the U.S. State Department will be used by CBP to complete an electronic Form I-94 during each individual's inspection at a port of entry. During border inspection, lawfully entering individuals will continue to receive a stamp in their passport showing their date of entry, non-immigrant status, and admitted to-date, but they will no longer receive a paper copy of their Form I-94 unless one specifically is requested. CBP therefore is creating a new website (www.cbp.gov/i94) at which individuals will be able to obtain and print a copy of their Form I-94 using certain passport information.

The new system presents two important questions for employers. First, how will employers verify individuals' work authorization without a paper Form I-94? The U.S. Citizenship and Immigration Service (USCIS) has already answered this question by announcing that job applicants still will be required to provide a paper copy of the Form I-94 during the I-9 process. (USCIS also announced that other government agencies, such as DMVs, will continue to require a paper Form I-94.) Thus, going forward, employers should continue to demand a paper Form I-94 as evidence of work authorization where necessary—workers will have to either request a paper Form I-94 at the border or print a copy to submit to their employer.

Second, what do employers need to tell their non-immigrant workers who will be entering the U.S. or who are already here? For those workers who are already in the U.S., no action is needed—the paper Forms I-94 that they

remain valid and will be collected by CBP upon their departure from the U.S., per the usual system. For those non-immigrant workers who will be entering the U.S. after the electronic Form I-94 system is phased-in beginning in late April, however, best practices will include: (a) ensuring that accurate information is provided to the sea or air carrier; (b) verifying with CBP during border inspection that all information on the electronic Form I-94 is accurate; and (c) obtaining a paper copy of the Form I-94, either by requesting one from CBP during border inspection or printing one, and carrying that paper copy at all times. By taking these steps, non-immigrant workers and the U.S. employers for whom they work will ensure that workers' registration, immigration status, and employment authorization are correctly documented and evidenced at all times.

Topics

Immigration, Employment Verification, I-9

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