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## CBP PUBLISHES INTERIM FINAL RULE FOR AUTOMATED, “PAPERLESS” FORM I-94 CARDS

On Wednesday, March 27<sup>th</sup>, U.S. Customs & Border Protection (CBP) published in the *Federal Register* the a much-anticipated [Interim Final Rule](#) moving to automated, “paperless” Form I-94 card issuance. The rule, which will go into effect April 26, 2013, expands the definition of “Form I-94” to include an electronic format.

For decades, a paper Form I-94 Arrival/Departure Record card has been issued to foreign nationals entering the United States in order to document the classification of admission and the duration of authorized stay in the United States. By expanding the definition of “Form I-94” to include an electronic format, CBP is now able to collect Form I-94 data and “issue” the Form I-94 in an automated, electronic process.

CBP already receives electronic passenger arrival information for air and sea arrivals directly from the common carrier prior to arrival at port. This electronically-collected information will now be used to populate the fields of an electronic Form I-94 card. In most cases foreign nationals will no longer receive a paper Form I-94 card stapled in their passport. For now, CBP will continue to issue paper Form I-94 cards to all *arrivals at land-border crossings*. CBP also will continue to issue the paper Form I-94 to air, land, and sea arrivals that are required to go through a “secondary inspection” process, such as *asylees, refugees, and parolees* (including those parolees who are paroled based on an Advance Parole document issued in connection with a pending I-485 Application to Adjust Status).

After the rule goes into effect on April 26<sup>th</sup>, most foreign nationals will receive only an admission stamp in their passport. The preamble to the rule indicates that the admission or parole stamp in the passenger’s foreign passport will be added to the list of acceptable “evidence of alien registration.” This means that, in most cases the individual’s passport admission stamp will satisfy the requirement that a foreign national carry evidence of lawful status at all times.

Foreign nationals who receive only an admission or parole stamp in their passport may later print a record of their electronic Form I-94 from the CBP website at [www.cbp.gov/i94](http://www.cbp.gov/i94) in order to have tangible Form I-94 arrival documentation. Because the paper Form I-94 card is widely required as evidence of lawful status and employment authorization, nonimmigrants are advised to print a paper version of their electronic Form I-94 card from the CBP website as soon as possible following their arrival in the United States.

In a U.S. Citizenship & Immigration Services (CIS) [announcement](#) today, CIS confirms many ***federal, state, and local agencies and benefits programs will continue to rely on a paper Form I-94 card*** as evidence of lawful status when adjudicating applications for such things as Social Security Number cards, state Driver’s Licenses, and even unemployment benefits. Additionally, ***CIS will continue to require presentation of a paper Form I-94 to document maintenance of lawful nonimmigrant status*** when an applicant seeks an extension or change of nonimmigrant status in the United States. Similarly, to document employment authorization in connection with the Form I-9 Employment Eligibility Verification process, ***work-authorized nonimmigrants may need to present a paper Form I-94 card to their employer***. The new rule specifies that “providing a printout of information from DHS systems

containing an electronic record of admission or arrival/departure” is the same as presentation of a paper Form I-94 card whenever such a paper Form I-94 is required.

Employers who have questions regarding Form I-9 compliance when presented with an unfamiliar version or computer printout of the Form I-94 card should contact their FosterQuan immigration attorney for additional information and assistance. Employers should not assume that a computer printout of Form I-94 arrival/departure record information is insufficient to document employment authorization, even if the [M-274 Employer Handbook](#) does not yet include a picture of the standard printout among the samples of acceptable documents.

As always, FosterQuan will continue to monitor changes in immigration procedures and will make future updates available in future Immigration Updates© and on the FosterQuan website at [www.fosterquan.com](http://www.fosterquan.com).