

handlers, have to bear the burden of the increased assessment rate.

As previously noted, assessments are minimal and uniform on all handlers. Thus, small handlers bear a proportional burden compared to larger handlers. The increase was recommended unanimously by the Board, which is made up of small and large handlers, as well as small and large growers, representing the entire California walnut industry. The Board made the unanimous recommendation based upon deliberations by four of its standing committees: the Market Development Committee, Production Research Committee, Grades and Standards Committee, and Budget and Personnel Committee. All four committees reviewed the proposed expenses and crop size, and considered alternative assessment rates. All of the committees recommended the increased assessment rate and determined that the budget was prudent, resulting in a unanimous recommendation from the Board.

Accordingly, no changes will be made to the rule as proposed, based on the comments received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers are already receiving 2016–17 crop walnuts from growers, the crop year began on September 1, 2016, and the assessment rate applies to all walnuts received during the 2016–17 and subsequent seasons. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

#### List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

#### PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 984 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 984.347 is revised to read as follows:

##### § 984.347 Assessment rate.

On and after September 1, 2016, an assessment rate of \$0.0465 per kernelweight pound is established for California merchantable walnuts.

Dated: December 12, 2016.

**Bruce Summers,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2016–30307 Filed 12–16–16; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### 8 CFR PARTS 1, 210, 212, 214, 215, 231, 235, 245, 245a, 247, 253, 264, 274a, and 286

[Docket No. USCBP–2013–0011; CBP Dec. No. 16–27]

**RIN 1651–AA96**

#### Definition of Form I–94 To Include Electronic Format

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts, without change, interim amendments to the Department of Homeland Security (DHS) regulations which were published in the **Federal Register** on March 27, 2013, as CBP Dec. No. 13–06. These amendments enabled DHS to transition the issuance of the Form I–94 (Arrival/Departure Record) to an automated process. In the automated process, DHS creates a Form I–94 in an electronic format based on passenger, passport and visa information DHS obtains electronically from air and sea carriers and the Department of State (DOS) as well as through the inspection process. This document addresses the comments received in response to the interim rule and discusses some operational modifications to the Form I–94 process that were implemented after publication of the interim rule.

**DATES:** This final rule is effective January 18, 2017.

#### FOR FURTHER INFORMATION CONTACT:

Suzanne Shepherd, U.S. Customs and Border Protection Office of Field Operations by telephone (202) 344–2073 or by email, [Suzanne.M.Shepherd@dhs.gov](mailto:Suzanne.M.Shepherd@dhs.gov).

#### SUPPLEMENTARY INFORMATION:

#### Abbreviations and Terms Used in This Document

ACI–A Airports Council International–North America  
 ACIP American Council on International Personnel  
 ADIS Arrival and Departure Information System  
 AILA American Immigration Lawyers Association  
 APA Administrative Procedure Act  
 APIS Advance Passenger Information Systems  
 CBP U.S. Customs and Border Protection  
 CBSA Canadian Border Services Agency  
 CCD Consular Consolidated Database  
 CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 DIS Deferred Inspection Site  
 DMV Departments of Motor Vehicles  
 DOS Department of State  
 DOT Department of Transportation  
 ESTA Electronic System of Travel Authorization  
 FAQ Frequently Asked Question  
 FNU First Name Unknown  
 FOIA Freedom of Information Act  
 ICAO International Civil Aviation Organization  
 ICE U.S. Immigration and Customs Enforcement  
 IFR Interim Final Rule  
 INA Immigration and Nationality Act  
 INM Instituto Nacional de Migración  
 INS Immigration and Naturalization Service  
 LNU Last Name Unknown  
 MRZ Machine Readable Zone  
 NAFSA NAFSA: Association of International Educators  
 OIS Office of Immigration Statistics  
 OMB Office of Management and Budget  
 OTTI Office of Travel and Tourism Industries  
 PIA Privacy Impact Assessment  
 PII Personally Identifiable Information  
 POE Port of Entry  
 SAVE USCIS's Systematic Alien Verification for Entitlements program  
 SEVIS Student and Exchange Visitor Information System  
 SEVP Student and Exchange Visitor Information Program  
 SHRM Society for Human Resource Management  
 SSA Social Security Administration  
 USCIS U.S. Citizenship and Immigration Services  
 USDA U.S. Department of Agriculture  
 VWP Visa Waiver Program

#### Executive Summary

The Form I–94 (Arrival/Departure Record) is issued by DHS to certain nonimmigrant foreign nationals upon arrival in the United States or when they change status in the United States.

The Form I-94 is used to document arrival and departure and provides evidence of the terms of admission or parole. The Form I-94 is also used by individuals granted asylum in the United States as a proof of their grant of asylum and by refugees as proof of their refugee status. CBP, a component of DHS, generally issues the Form I-94 to nonimmigrants at the time they lawfully enter the United States. Nonimmigrant travelers use the Form I-94 for various purposes such as completing the Form I-9 to verify employment eligibility, applying for immigration benefits, or presenting to a university to verify eligibility for enrollment.

On March 27, 2013, CBP published an interim final rule (IFR) in the **Federal Register** (78 FR 18457) that added to the regulations a definition of "Form I-94" to allow the Form I-94 to be in either paper or electronic format. Prior to the effective date of the IFR, the Form I-94 was a paper form only. The IFR made necessary changes to the regulations to enable CBP to transition from only paper to allow for an electronic form. In the case of air and sea ports of entry, the regulation allowed CBP to transition to an automated process whereby CBP creates an electronic Form I-94 based on information collected via the Advance Passenger Information System (APIS) along with visa information transmitted to CBP by the Department of State. The automated process applies only to nonimmigrants arriving at air and sea ports of entry because APIS data is currently collected only for air and sea. The automation of the Form I-94 process for nonimmigrants arriving by air or sea eliminates duplicative information collections and saves time

and money for the traveling public, carriers, and CBP.

CBP makes the electronic Form I-94 available through a Web site. To access the Form I-94 through the Web site the traveler inputs information from his/her passport. If needed, nonimmigrants may print out a copy of the Form I-94 from the Web site and present it to third parties in lieu of the paper form. CBP continues to provide a paper Form I-94 to certain classes of aliens, such as asylees, certain parolees, and others upon request or whenever CBP determines the issuance of a paper form is appropriate.<sup>1</sup>

This regulation also is consistent with CBP's enhancements to the I-94 Web site to enable travelers arriving at a land port of entry to submit the Form I-94 information to CBP and pay the required fee prior to arrival. Unlike the automated process for air and sea where CBP creates an electronic Form I-94 based on information collected via APIS and other sources, this I-94 land border process enables travelers to provide the Form I-94 information to CBP electronically prior to arrival to facilitate the land border issuance process. The enhanced I-94 Web site launched on September 29, 2016.

DHS received eighteen submissions in response to the IFR. Most of these submissions contained comments providing support, voicing concerns, highlighting issues, or offering suggestions for modifications to the automation process. After review of the comments, CBP has decided to finalize the interim final rule without change. However, CBP has made some operational changes, primarily to the I-94 Web site, in response to the

comments. These changes, which are described in the comment responses, are intended to help travelers retrieve their Form I-94 information and travel history more easily.

CBP has completed an updated economic assessment analyzing the effects of the automation of the Form I-94. This rule affects CBP, air and sea carriers that transport foreign nationals to the United States, and the foreign nationals themselves. CBP will incur costs associated with linking its data systems and building and maintaining the I-94 Web site. CBP benefits through lower printing, storage, and contract costs. CBP estimated a net benefit of \$15.5 million for CBP in 2013. Carriers benefit as a result of lower printing and storage costs. CBP estimated a net benefit of \$1.3 million for carriers in 2013. Foreign nationals traveling to the United States incur opportunity costs associated with logging onto the Web site to access their electronic Form I-94, printing their Form I-94, and, for some travelers, the cost to drive to a location with internet access so they can access and print their electronic Form I-94. Foreign nationals benefit from a reduced opportunity cost associated with filling out a paper Form I-94 and reduced opportunity and fee costs associated with filing a Form I-102 to replace a lost Form I-94. CBP estimates a net benefit of between \$4141.1 million and \$6565.9 million in 2013 for foreign travelers. In total, CBP estimates that net benefits to all parties ranged from \$5757.9 million to \$8282.7 million in 2013. Net benefits to U.S. entities (carriers and CBP) totaled \$16.8 million in 2013. Net benefits are summarized in table ES-1 below.

EXHIBIT ES-1—NET BENEFITS

[Undiscounted 2012\$]\*

	2012	2013	2014	2015	2016	2017
CBP .....	- 1,321,000	15,461,360	15,461,360	15,461,360	16,167,798	20,447,110
Carriers .....	0	1,344,450	1,344,450	1,344,450	1,344,450	1,344,450
Travelers—Low .....	0	41,109,614	76,986,391	80,597,880	85,173,424	93,439,507
Travelers—Primary .....	0	51,503,032	96,140,493	100,696,430	106,131,707	115,548,989
Travelers—High .....	0	65,882,967	122,641,373	128,504,014	135,128,784	146,138,820
Grand Total—Low .....	- 1,321,000	57,915,424	93,792,201	97,403,690	102,685,671	115,231,067
Grand Total—Primary .....	- 1,321,000	68,308,842	112,946,303	117,502,240	123,643,955	137,340,549
Grand Total—High .....	- 1,321,000	82,688,777	139,447,183	145,309,824	152,641,032	167,930,380

\* Estimates may not total due to rounding.

<sup>1</sup> As of September 2015, CBP has automated the Form I-94 process for refugees. Refugees can now

access their Form I-94 from the I-94 Web site. CBP no longer provides a paper Form I-94 to refugees

unless one is requested or CBP determines that it is appropriate to issue one.

## Background

### *The Form I-94*

Prior to the implementation of the IFR, the Form I-94 was generally issued to foreign nationals at ports of entry (POEs) at the time they lawfully enter the United States. See 8 CFR 235.1(h). The Form I-94 is also issued when a foreign national changes immigration status within the United States. The Form I-94 is used to document status in the United States, the authorized length of stay, and departure. The Form I-94 collects biographical information, visa and passport information, and the address and phone number where the traveler can be reached while in the United States.

The Form I-94 has been used for approximately 50 years by DHS, its predecessor agencies, and external stakeholders for a variety of purposes. CBP and U.S. Immigration and Customs Enforcement (ICE), components of DHS, use the form to document arrival and departure, as well as class of admission or duration of parole. U.S. Citizenship and Immigration Services (USCIS), also a component of DHS, issues Forms I-94 to foreign nationals extending their authorized length of stay or changing their immigration status while in the United States and to individuals granted asylum or refugee status in the United States as proof of their grant of asylum or refugee status. USCIS also uses Form I-94 information to verify lawful admission or parole when adjudicating immigration benefit requests, confirming employment authorization for employers participating in USCIS's E-Verify program, or verifying immigration status for benefit granting state and federal government agencies participating in USCIS's Systematic Alien Verification for Entitlements (SAVE) program. The Form I-94 is also used by the Social Security Administration (SSA), state agencies, such as Departments of Motor Vehicles (DMV), and public assistance agencies and organizations, to verify eligibility for benefits. The form is used by certain foreign nationals for evidence of lawful admission or parole, as well as, where applicable, employment eligibility and eligibility for public benefits. For more complete information on the Form I-94, its uses, and the automation, please refer to the background section of the IFR.

### *Automation of the Form I-94 at Airports and Seaports*

Nearly all of the traveler information collected on the Form I-94 is also collected by CBP in advance of the traveler's arrival via the Advance

Passenger Information System (APIS). Using information collected via APIS along with visa information transmitted to CBP by DOS, CBP is now able to generate Forms I-94 electronically, which reduces paperwork burdens for travelers and reduces costs for air and sea carriers and CBP.

On March 27, 2013, CBP published an IFR in the **Federal Register** (78 FR 18457) amending the DHS regulations to include new definitions at 8 CFR 1.4 for the term "Form I-94" and other terms when used in relation to the Form I-94. The IFR became effective on April 26, 2013, and on that date, CBP began the transition to an automated Form I-94 process whereby CBP creates an electronic Form I-94 for travelers arriving by air or sea based on the information in its databases. CBP continues to provide a paper Form I-94 to those who request such form, as well as to certain classes of aliens, such as asylees, certain parolees, and whenever CBP determines the issuance of a paper form is appropriate. For these individuals arriving by air and sea carriers, an electronic Form I-94 is also created.

Travelers are able to access and print their electronic Form I-94 via the Web site CBP has established for this purpose: [www.cbp.gov/I94](http://www.cbp.gov/I94).<sup>2</sup> Travelers to whom an electronic Form I-94 has been issued may log on to the Web site using identifying information and print a copy of the electronic Form I-94. In order to access the Form I-94 from the Web site, the traveler is required to enter information from his or her passport; thus, a third party without access to the traveler's passport is not able to access the Form I-94 from the Web site. The printout from the Web site is the equivalent of the departure portion of the paper form and contains the same information as the departure portion of the paper form. CBP continues to stamp the traveler's passport at the time of inspection and will annotate the stamp with the class of admission or parole and duration of admission or parole.

### *Enhanced Form I-94 Land Border Process*

In addition to the automation of the Form I-94 at air and sea ports of entry, on September 29, 2016, CBP modified the process by which a traveler arriving at the land border can provide Form I-94 information and pay the related fee by adding an electronic option. Specifically, CBP enhanced the I-94 Web site to enable travelers arriving at a land port of entry to submit the Form

I-94 information to CBP and pay the required fee prior to arrival. CBP expects that these enhancements will result in time savings to travelers who choose this option.

Before September 29, 2016, when a traveler requiring a Form I-94 arrived at the land border, he/she provided the I-94 information to a CBP officer who input the data into a CBP computer system. After determining the traveler's admissibility, the CBP officer printed a Form I-94A<sup>3</sup> for the traveler and referred him/her to the cashier to pay the \$6 fee.<sup>4</sup>

Under the new process, a traveler who requires an I-94 and intends to enter the United States at a land port of entry will have the option to either follow the above process or to apply for an I-94 and pay the \$6 fee up to seven days in advance of arrival. Using the I-94 Web site, the traveler enters all of the necessary data for I-94 processing that would be collected by CBP at the port of entry. Upon paying the fee, the traveler will receive a "provisional I-94". This "provisional I-94" will become effective after the traveler presents it to a CBP officer at a land port of entry and completes the issuance process with a CBP officer. If the "provisional I-94" is not processed within 7 days of submitting the application, it will expire and the fee will be forfeited.

The I-94 Web site will instruct the traveler to appear at the land port of entry for an interview and biometric collection. When the traveler arrives at the port of entry, he/she completes the issuance process with a CBP officer. The CBP officer will locate the traveler's information by swiping the traveler's passport or other travel document in CBP's database. This will verify that the fee was paid and pre-populate the data fields from the document swipe and the information provided by the traveler in the Web site. If the CBP officer determines that the traveler is admissible, the CBP officer will print out a Form I-94A to give to the traveler.

## Discussion of Comments

### *Overview*

Although CBP promulgated the IFR without first soliciting public comment, CBP provided a thirty-day post-promulgation comment period soliciting public comments that CBP would consider before adopting the interim regulations as final. CBP received

<sup>3</sup> The Form I-94A is the version of the Form I-94 that CBP issues at land ports of entry.

<sup>4</sup> The amount of fee for the issuance of the Form I-94 at a land border port of entry is provided for in 8 CFR 103.7(b)(1)(i)(D).

<sup>2</sup> The direct link is: <https://i94.cbp.dhs.gov/I94/request.html>.

eighteen submissions in response to the IFR. Commenters included individuals, the American Immigration Lawyers Association (AILA), the American Council on International Personnel (ACIP), the Society for Human Resource Management (SHRM), Feld Entertainment, Inc., the Intel Corporation, NAFSA: Association of International Educators (NAFSA), and the Airports Council International-North America (ACI-NA). Many commenters raised multiple issues, and several issues were raised by numerous commenters. Of the eighteen submissions, most included comments seeking clarification of specific issues, highlighting concerns or issues with the Form I-94 automation, or offering solutions to issues or alternatives. Several of the operational issues raised by commenters have already been addressed by CBP, which our responses reflect. CBP has grouped the issues by topic and provides responses below.

#### *Benefits of Automation*

*Comment:* Many commenters were supportive of the change to an electronic Form I-94, saying that it will provide increased efficiency for passengers, airlines, and CBP. Commenters said that no longer requiring passengers to fill out the paper form on the plane while en route to the United States would not only save passengers time, but would also save air carriers time and money and would free up airline staff to perform other duties. Commenters also anticipated reduced wait times at the POEs, and increased officer efficiency.

*Response:* CBP appreciates this feedback and agrees that the automation of the Form I-94 benefits the traveling public, air and sea carriers, and CBP.

*Comment:* One commenter requested that the Form I-94 be automated for the land ports as well as air and sea, as this will help reduce wait times and improve commerce at the land border.

*Response:* CBP agrees that automating the Form I-94 at land POEs would provide benefits to travelers and is exploring expanding automation to include land border POEs. However, the electronic Form I-94 relies in large part on information collected via APIS, and APIS data is currently collected only for air and sea. Therefore, CBP cannot fully automate the Form I-94 process at land border POE's at this time. CBP's enhanced Form I-94 land border process, however, is expected to increase the efficiency of the entry process and reduce administrative duties for CBP officers, ultimately resulting in shorter wait times for travelers requiring a Form I-94.

#### *Regulatory Amendments*

*Comment:* One commenter requested that the Form I-94 printout from the I-94 Web site be added to the list of evidence of registration for purposes of Immigration and Nationality Act (INA) section 264(e).

*Response:* The list of acceptable registration documents for purposes of INA 264(e) is found in 8 CFR 264.1(b). The Form I-94, Arrival-Departure Record, is already included in the list of evidence of registration in 8 CFR 264.1(b). The IFR added a new provision to the regulations to define "Form I-94" and related terms. The new definition makes clear that the Form I-94 now includes information collected electronically, and also defines "original Form I-94" to include the printout from the I-94 Web site. Due to the new definition provided for the Form I-94, CBP believes it is clear that the printout constitutes evidence of registration and no further change is needed.

*Comment:* One commenter requested that the definition of "original document" in 8 CFR 274a.2(b)(1)(v) be amended to include a Form I-94 printout.

*Response:* CBP believes that the definition of "original Form I-94" included in the IFR accomplishes the desired result, and, therefore, it is not necessary to amend 8 CFR 274a.2(b)(1)(v). That definition provides that the term "original Form I-94" includes, but is not limited to, any printout or electronic transmission of information from DHS systems containing the electronic record of admission or arrival/departure. See 8 CFR 1.4(d). 8 CFR 274a.2 concerns the Form I-9, which is a USCIS form. USCIS agrees that a printout of the Form I-94 from the Web site constitutes an "original document" under this regulation.

*Comment:* One commenter, NAFSA, requested that paragraph (e) of section 1.4 be amended to add "or electronic transmission" after the word "printout." The commenter states that the revision would clarify that a traveler may present an electronic version of the Form I-94, such as a PDF or image scan.

*Response:* CBP believes that such amendment is unnecessary and could cause confusion as to what can be presented or submitted in various situations. For example, at this time, a printout of the Form I-94 is still necessary in a number of situations, including the completion of the USCIS Form I-9. However, the current definition specifically states that the terms in question "are not limited to" providing a printout, and thus, could be

applied more broadly as appropriate by stakeholders. Although CBP is hopeful that the Form I-94 in electronic form will be accepted in the future by all stakeholders to whom these regulations apply and that a printout will not always be required, that is not the case now.

#### *Administrative Procedure Act*

*Comment:* One commenter, Feld Entertainment, Inc., disagreed that the rulemaking is procedural. The commenter states that because the rule was promulgated without prior notice and comment, it violates the Administrative Procedure Act (APA). The commenter was also concerned that the comments received in response to the IFR would be disregarded.

*Response:* The IFR enabled CBP to transition to an automated process whereby CBP creates a Form I-94 in an electronic format. CBP has not changed the substantive regulations relating to the Form I-94, but only the operational means by which CBP issues the form. Thus, the rule is a procedural rule exempt from prior notice-and-comment requirements under the APA. CBP already has adopted a number of the commenters' operational suggestions, which are described in many of the responses below. Many of the commenters' questions have been addressed on the FAQs page of the I-94 Web site for easy reference.

#### *Web Site and Printouts*

*Comment:* One commenter noted that the Web site option is helpful for those who lose or misplace their Forms I-94, or when the paper form becomes so worn that it is no longer accepted by agencies.

*Response:* CBP appreciates this feedback, and agrees that the Web site makes it easier for travelers to obtain copies of their Forms I-94 when necessary. Since the implementation of the Form I-94 automation, CBP has expanded the Web site to provide additional benefits, including allowing nonimmigrants to access their five-year travel history.

*Comment:* A few commenters requested that the Web site be updated to reflect changes in status granted by USCIS. Commenters said that, if this is done, nonimmigrants who have had a change of status will not have to file a Form I-102 for a replacement Form I-94 if needed.

*Response:* CBP agrees that providing this information through the Web site would be helpful and would reduce the number of Forms I-102 that would be filed. The Form I-102 is the USCIS form

nonimmigrants use to apply for a new or replacement Form I-94. Adding information about changes of status granted by USCIS to the Web site is not currently possible. However, CBP is looking into whether USCIS information can be reliably added to the Web site in the future. Any updates on this issue will be included in the FAQs page of the I-94 Web site.

*Comment:* A few commenters, including AILA, disagreed with the assumption in the economic analysis that B-1/B-2 visa holders would not access the Web site. Commenters said that these visa holders, especially those in the United States for at least six months, would have reason to obtain their Form I-94 records or may wish to obtain a record of their admission for future use.

*Response:* CBP agrees that some B-1/B-2 visa holders, including those who are given a year to stay as a B-1/B-2 visa holder, may have a need to access the I-94 Web site. Accordingly, CBP has revised the assumption in the economic analysis. Based on Web site query history since the interim rule went into effect, we now assume that one percent of B-1/B-2 visa holders will access the I-94 Web site. In addition, CBP agrees that some travelers may wish to obtain a record of their admission for future use. CBP has made changes to the I-94 Web site to allow travelers to access their most recent Form I-94 record as well as a five-year travel history. This can now be accessed by travelers who have already left the United States in addition to those present in the United States.

*Comment:* Some commenters noted that CBP is assuming all travelers will have access to a printer. The commenters stated that it is not as easy as CBP assumes for a foreign national to access public libraries soon after arrival in the United States. They would have to learn that public libraries offer internet, that one can print from them, that there is a library nearby, that public transportation is available, how to navigate public transportation, and explain what library resources are needed.

One commenter, the Intel Corporation, was concerned that employees would not be able to access the Web site before they must start work in the United States, which is problematic because the Form I-94 is required to complete the Form I-9. The commenter stated that it has a company policy to complete the Form I-9 during new employee orientation, which requires the employee to have his or her Form I-94 in hand. The company does not allow new hires access to company

computers until after the new employee orientation, and due to data privacy protection protocol, the company cannot allow employees to access Personally Identifiable Information (PII) on a computer assigned to someone else. The commenter suggests CBP provide a way for the employer to access the new hire's Form I-94 number directly.

Several commenters suggested that CBP print a copy of the departure portion for the traveler and include instructions on how to print more copies, or alternatively, that CBP provide kiosks at the airports where foreign nationals can inspect and print the Form I-94.

*Response:* CBP recognizes that access to the internet and printers is a barrier to many travelers who need their electronic Form I-94, including those who need to present their Form I-94 when completing the Form I-9. For this reason employers, or third parties, may access Form I-94 records when consent is obtained from the record holder. For more information on third party consent visit: <https://i94.cbp.dhs.gov/I94/request.html>.

In the regulatory assessment for the interim final rule, CBP discussed the difficulties some foreign nationals face when they need to access the I-94 Web site to print their electronic Form I-94. The analysis estimated that approximately 1,028,876 travelers would need to drive 20 miles and that it would take 60 minutes of a traveler's time to access and print their electronic Form I-94. CBP estimated that this cost aliens about \$21 million in 2013. We have updated these estimates for this final rule in the economic assessment. For more information, see the below section entitled *Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)*. CBP now estimates that it cost \$17 million in 2014 (the first full year the rule is in effect). CBP acknowledges that this represents a significant negative impact to these travelers and strives to minimize this burden to the extent possible. To that end, CBP continues to provide paper Forms I-94 upon request when the individual arrives in the United States at the port's secondary inspection station and at Deferred Inspection Sites (DISs) once the traveler is in the United States.

CBP recognizes the potential usefulness of placing kiosks at ports where foreign nationals could inspect and print their Forms I-94 and has evaluated the merits of placing such kiosks at the busiest 20 airports and the busiest 20 seaports. Based on this analysis, for travelers' benefits to exceed

the kiosks costs, greater than one percent of the subset of travelers who would otherwise need to travel to access and print their electronic Form I-94 would instead need to use a kiosk. Based on the few travelers who currently request paper Forms I-94, CBP does not believe there are enough foreign nationals who would take advantage of the kiosks to offset CBP's costs of installing them. In addition, due to budget constraints, CBP does not have the funds to acquire these kiosks at this time. See the *Regulatory Alternatives* section of the economic assessment below for more information.

*Comment:* One commenter had concerns about what a traveler would do if he or she loses his or her passport and cannot access the necessary information to retrieve the Form I-94 from the Web site.

*Response:* CBP believes that making the Form I-94 available on the Web site will not put travelers who lose their passports in a worse position than they were in prior to the automation of the Form I-94. Paper Forms I-94 were typically stored or stapled into a traveler's passport; thus, prior to automation, loss of a passport would have required the traveler to obtain a new Form I-94 as well. With automation, if the traveler loses his or her passport, but has the passport information documented elsewhere, he or she will be able to obtain the Form I-94 from the Web site. CBP has made various updates to the I-94 Web site to address some of the comments. One of these updates is that a traveler no longer needs to enter the date and class of admission, which will make accessing the Form I-94 record easier for travelers.

*Comment:* Many commenters encouraged CBP to make archival records of Form I-94 records available indefinitely, as this will reduce the administrative burden placed on CBP to respond to Freedom of Information Act (FOIA) requests.

*Response:* CBP has made changes to the I-94 Web site to allow travelers to access their most recent Form I-94 record, even if the traveler has already departed the United States. Although CBP is not able to make the Form I-94 records available on the Web site indefinitely, CBP has updated the Web site so that Form I-94 records are available dating back five years. The Web site also now allows travelers to request their five-year U.S. border crossing history. Travelers frequently request their five-year travel history from DHS, as this history is often required when they apply for certain benefits. CBP agrees that providing this information through the Web site will

help reduce FOIA requests regarding travel history. More details about the benefits CBP anticipates from this change can be found in the economic assessment below, entitled “*Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)*.”

*Comment:* One commenter asked whether nonimmigrants who received paper Forms I-94 would be able to get replacements from the Web site.

*Response:* The Web site now provides access to Forms I-94 issued up to five years prior to the query date. Currently, nonimmigrants who have received paper Forms I-94 since 2009 are able to access their Form I-94 information via the Web site.

*Comment:* Several commenters were concerned that foreign nationals may not be able to access their records on the Web site due to typographical or biographical errors that occur during the creation of the electronic Form I-94 record. In particular, a few commenters noted that information is frequently entered incorrectly on visas, especially incorrect name spellings. Information drawn from visas would then be incorrect, and travelers would not be successful when querying their Form I-94 record.

*Response:* Most of the biographical information CBP uses in creating the electronic Form I-94 is drawn from the traveler’s passport. The only information drawn from the visa for the Form I-94 is the visa classification and issuance date. The exact format of the name used in the electronic Form I-94 is found in the Machine Readable Zone (MRZ) of the passport, found at the bottom of the biographical page of the passport. A traveler having trouble finding his or her Form I-94 record should look at the way his or her name is formatted in the passport MRZ. The MRZ shows the traveler’s name immediately following the three letter country code, as last/surname and given name separated by chevrons (<<<<). A traveler should not include the country code when querying his or her Form I-94 record. The MRZ does not use punctuation such as hyphens or apostrophes. In some cases, a traveler’s name might be truncated in the MRZ; in such cases, the traveler should query the truncated version of the name. CBP has included guidance on this issue on the FAQs page of the I-94 Web site, along with an example passport page for reference.

*Comment:* A few commenters requested that CBP ensure that the Web site is accessible on a variety of platforms and browsers, including

mobile devices. Commenters also requested that both [www.cbp.gov/I-94](http://www.cbp.gov/I-94) and [www.cbp.gov/I-94](http://www.cbp.gov/I-94) [note the hyphen in I-94] direct users to the proper Web site.

*Response:* Although CBP does not have the resources to conduct testing on multiple platforms, CBP has not received any feedback concerning a lack of functionality on any platform. Due to updates that CBP has made to [www.cbp.gov](http://www.cbp.gov) as a whole, the full address for the Form I-94 retrieval Web site is now: <https://i94.cbp.dhs.gov/I-94/request.html>. Both web addresses [www.cbp.gov/I-94](http://www.cbp.gov/I-94) and [www.cbp.gov/I-94](http://www.cbp.gov/I-94) direct users to a Web site with information about the Form I-94, and includes a link to the Form I-94 retrieval page.

*Comment:* Several commenters, including AILA, ACIP, SHRM, and Feld Entertainment, suggested adding an endorsement or other information on the printout to help educate those stakeholders who are not accustomed to seeing Form I-94 printouts from the Web site, and might be reluctant to accept the printout. Some commenters also suggested including a phone number or email address on the printout.

*Response:* CBP agrees that additional language on the printout would help educate stakeholders, and has added language to the printout indicating that the Form I-94 has now been automated for most nonimmigrants. While CBP has decided not to add a phone number or email to the printout, there is a link on the I-94 retrieval Web site that directs users to the CBP help desk.

*Comment:* A few commenters stated that it was unclear how CBP would prevent fraudulent printouts.

*Response:* CBP does not believe that the printout creates a greater risk of fraud than the paper Forms I-94, which did not contain any security features. CBP continues to encourage stakeholders to verify a traveler’s information through SAVE or E-Verify, when registered or enrolled, respectively, in these services, and only as authorized.

The SAVE program is a USCIS service that helps federal, state, and local benefit-issuing agencies, institutions, and licensing agencies determine the immigration status of benefit applicants so only those entitled to benefits receive them. More information on SAVE can be found at: <http://www.uscis.gov/save>.

E-Verify is a web-based system that allows businesses to confirm the eligibility of their employees to work in the United States. More information on E-Verify can be found at: <http://www.uscis.gov/e-verify>.

*Comment:* A few commenters had privacy concerns related to the Web site. One commenter was concerned that CBP will automatically collect information on those persons attempting to access the Form I-94 information from the Web site. Another commenter was concerned that the personal information available on the Web site could be accessed by unauthorized parties, which put refugees or those seeking asylum in the United States at risk.

*Response:* DHS/CBP has issued a Privacy Impact Assessment (PIA), which describes the I-94 Web site, and posted it online at: <https://www.dhs.gov/sites/default/files/publications/privacy/PIAs/pia-cbp-16-I-94-automation-20130227.pdf>. DHS/CBP has also updated and reissued the System of Records Notice (SORN) for the Nonimmigrant and Immigrant Information System (NIIS) at 80 FR 13398, a system for maintaining the arrival and departure records of nonimmigrants, and for APIS at 80 FR 13407. CBP is in the process of updating the PIA, which will discuss how the I-94 Web site will retain information about attempts to access the I-94 Web site (*i.e.* the search history) for only three months and as part of the Web site’s audit log. The search history, as part of the audit log, is part of the Web site’s infrastructure. The audit log is only maintained in the Web site’s infrastructure, and the search history is retained for only three months, to reduce the risk of improper use or disclosure of the search history. The benefits of keeping an audit log of searches conducted on the I-94 Web site include preventing improper and unauthorized use of the Web site, and holding accountable anyone who uses the I-94 Web site improperly or without authorization.

CBP believes that the benefits of having an audit log outweigh the small and limited risks of improper use and disclosure of search histories. The log of search histories allows CBP to conduct audits and uncover when an unauthorized party is attempting to obtain information from the I-94 Web site. For example, if a single access point conducts multiple searches for different individuals, CBP will investigate whether someone or something is conducting searches without the travelers’ consent. CBP has included a new security consent page to the Form I-94 retrieval Web site that users must read and accept before querying an Form I-94 record. The security page requires users to affirm that they are authorized to obtain that traveler’s history, and to understand

that unauthorized or improper use could result in criminal and civil penalties. With respect to information pertaining to persons whose asylee status is prohibited from public disclosure pursuant to 8 CFR 208.6, CBP is taking the added precaution of requiring asylees to manually submit verifiable identity information before they may access their Form I-94 information. Asylees will continue to receive a paper Form I-94. Refugees and certain parolees may access their Form I-94 via the Web site.

#### *Automatic Revalidation*

*Comment:* Numerous commenters were concerned about how the automation of the Form I-94 would affect automatic revalidation.<sup>5</sup> Commenters noted that nonimmigrants seeking to use the automatic revalidation provisions will have to demonstrate to carriers that they are legally allowed to board the plane or vessel with an expired visa and a passport stamp that reflects a change or extension of status. Thus, commenters encourage CBP to require air and sea carriers to provide instructions to their personnel regarding the documentation for such persons.

Specifically, commenters suggested that CBP officers would need to override a nonimmigrant's automated departure record when a nonimmigrant seeks readmission under 22 CFR 41.112(d). Commenters also recommended that CBP emphasize in training that CBP officers will be expected to reactivate previously closed Form I-94 records for automatic revalidation.

Commenters were concerned that admission errors are common in automatic revalidation and that nonimmigrants without a paper Form I-94 may experience challenges during the inspection process. Commenters additionally noted that for nonimmigrants to print Forms I-94 to retain in the event they go to Canada or Mexico and wish to use the automatic revalidation provisions upon return to the United States would be very burdensome on those with limited internet and printing capabilities.

*Response:* The IFR expanded the definition of a Form I-94 to include electronic means. It did not change the requirements for the issuance and use of

the Form I-94. Automatic revalidation requirements are outlined in 8 CFR 214.1(b) and 22 CFR 41.112(d). Under the automatic revalidation provisions, certain temporary visitors holding expired nonimmigrant visas who seek to return to the United States may be admitted at a U.S. port of entry by CBP if they meet certain requirements including, but not limited to certain nonimmigrants with a valid, unexpired admission stamp on the Form I-94 or an electronic Form I-94. CBP maintains the electronic Form I-94 record in CBP systems and will use the electronic format to revalidate a previous, unexpired admission or extension of stay if all other revalidation requirements are met.

CBP has provided guidance to CBP officers at POEs regarding automatic revalidation. The primary processing system allows a CBP officer to re-use an existing Form I-94 when automatic revalidation requirements are met. CBP has also conducted outreach with the travel industry about the new documentary requirements. CBP has updated the Carrier Information Guide to assist carriers in recognizing acceptable documents and to ensure that carriers are informed of the Form I-94 automation. The Carrier Information Guide now includes an example of the electronic Form I-94 Web site printout and guidance to carriers on automatic revalidation.

An air carrier or vessel may require evidence of an unexpired admission by a traveler prior to embarkation. The Form I-94 Web site printout is evidence of that admission and can be presented to a carrier if requested. CBP has made changes to the I-94 Web site to allow travelers to access their Form I-94 records after departure. This allows travelers who have already departed the United States, but who may need the printout for automatic revalidation purposes to obtain the printout to present to a carrier.

CBP has included guidance on automatic revalidation in the FAQs on the I-94 Web site.

#### *Departure*

*Comment:* Some commenters stated that it was unclear what procedures were to be followed at the time of departure. Commenters were particularly concerned about the procedures that should be followed in the case of a nonimmigrant arriving by air or sea but departing by land. The commenters were concerned that CBP's database would record the arrival information, but would not record the departure, which could create difficulties for nonimmigrants seeking

to travel to the United States in the future. Commenters wanted to know whether nonimmigrants departing by land have any affirmative duties to ensure that departures by land are recorded correctly.

*Response:* CBP has added information concerning departure by land to the FAQs page of the I-94 Web site. CBP and the Canadian Border Services Agency (CBSA) have partnered to create an entry/exit system that exchanges entry information at land border ports of entry for certain individuals. Information collected on entry to one country is shared in order to electronically record as exit from the other. Thus, entry into Canada from the United States now creates a departure record for the United States.

CBP does not currently have a system for automatically recording departures by land to Mexico. If a traveler departs the United States by land to Mexico, the traveler may wish to retain evidence of departure to Mexico. Evidence of departure can include, but is not limited to, entry stamps in a passport, transportation tickets, pay stubs and/or other receipts. A traveler can request an entry stamp from the Instituto Nacional de Migración (INM) when entering Mexico. CBP is not, however, placing any affirmative duty on the travelers to carry such evidence.

Travelers departing the United States by air or sea will have their departures recorded automatically when the air or sea carrier sends CBP departure manifests.

*Comment:* One commenter was concerned that airlines do not always timely update their departure manifests when travelers cancel and rebook flights. Where CBP relies on carrier data, CBP might document inaccurate departure data, which could result in denial of benefits. The traveler would have no means to seek redress.

*Response:* APIS reports whether a person is "on board" or "not on board" in order to accurately reflect changes in reservations. CBP relies on confirmed departure information, and has updated the I-94 Web site to ensure that only confirmed departures are reflected. DHS is able to independently verify departures through DHS law enforcement databases, and overstay records are reviewed before any adverse action is taken.<sup>6</sup>

<sup>6</sup> According to confirmation studies conducted by CBP and outside studies conducted by contractors and GAO, CBP estimates that 99% of APIS departure data is accurate. CBP also confirms departure data independently by using information travelers send from outside the U.S., visa information from the State Department, or subsequent arrival data.

<sup>5</sup> Automatic revalidation allows certain persons to seek readmission to the United States for the duration of an unexpired period of a previous admission. Pursuant to 8 CFR 214.1 and 22 CFR 41.112, automatic revalidation allows readmittance of certain aliens who have been out of the United States for thirty days or less in a contiguous territory and who have an unexpired nonimmigrant visa.

The DHS TRIP program is an established means for a traveler to inquire to seek resolution to any difficulties experienced during travel into or departure from the United States. A traveler can submit evidence of a timely departure in DHS TRIP. If a traveler believes that CBP maintains incorrect departure information, the traveler can apply for redress at <http://www.dhs.gov/dhs-trip>.

#### Visa Classification

*Comment:* A number of commenters requested clarification on how visa classification data will populate an automated Form I-94 when a nonimmigrant has more than one visa.

*Response:* CBP receives visa information from DOS. There may be instances where a traveler has multiple eligible visa classifications. In these cases, the CBP officer determines at the time of entry which visa classification the traveler qualifies for and admits the traveler under that class of admission. The electronic Form I-94 record will reflect the class of admission chosen by the CBP officer at the time of entry. This process is substantially the same as the process followed during issuance of a paper Form I-94.

*Comment:* Commenters asked how nonimmigrants seeking to enter the United States from Visa Waiver Program (VWP) countries would be handled in view of the Form I-94 automation.

*Response:* Travelers entering the United States under the VWP used to receive a Form I-94W, which is different than the Form I-94. The Form I-94W was automated by the Electronic System for Traveler Authorization (ESTA) in August 2010. VWP visitors no longer receive a Form I-94W when arriving in the United States by air or sea, but rather must apply for and receive an ESTA prior to travel to the United States. For further information about ESTA, see 8 CFR 217.5 and [www.cbp.gov/esta/](http://www.cbp.gov/esta/). Upon arrival in the United States, VWP visitors receive an annotated stamp in their passports. This process is not affected by the automation of the Form I-94.

#### Errors and CBP Officer Training

*Comment:* A few commenters were concerned that frequently there are errors in admission records due to CBP officer error or misapplication of periods of stay for the various nonimmigrant visa categories. Commenters believe that more training is necessary for CBP officers on visa categories, automatic revalidation, and creation of the automated Form I-94.

*Response:* CBP officers are trained in all aspects of the inspection process.

CBP conducts ongoing training in the form of field guidance, musters, on-the-job training, and online training modules. CBP has provided field guidance and musters to CBP officers at the Ports of Entry (POEs) regarding the Form I-94 automation process. CBP has issued additional guidance to CBP officers to help the officers properly create the electronic Form I-94. CBP continues to instruct officers to verify information and make any needed corrections prior to creating the electronic Form I-94.

*Comment:* Some commenters were concerned that the regulations do not require CBP to stamp the passport, and state that CBP does not currently stamp passports consistently. Thus, there is no way for some travelers to review their admission information at the time of entry.

*Response:* It is CBP's policy to stamp the passport of visitors to the United States, or provide them a receipt, as in the case of Global Entry members.<sup>7</sup> CBP has provided extensive guidance and training to CBP officers at POEs regarding the documentation of a lawful admission into the United States with a CBP admission stamp. CBP will continue to provide guidance and training to CBP officers at the POEs to ensure that officers are stamping passports consistently. CBP notes, however, that a traveler will be able to find his or her admission record on the I-94 retrieval Web site regardless of whether the passport contains an admission stamp.

*Comment:* Some commenters noted that variations on naming conventions and other data occur in travel documents and records. These commenters stated that there are often variations due to inconsistent rules for transliterating non-Latin alphabets, and inconsistent rules for non-standard characters or naming conventions. The systems must be configured so that travelers are not harmed by variations in names and systems. Commenters prefer that CBP use information from the biographical page of the passport rather than information from the visa, as the visa name is often incorrect. The commenters indicated that DOS naming conventions are often not compatible with the conventions of other agencies. In particular, the First Name Unknown (FNU) or Last Name Unknown (LNU) designations create problems for nonimmigrants when the U.S. visa is

<sup>7</sup> Nonimmigrant Global Entry members receive a printed Form I-94 from the Global Entry kiosk, and can also retrieve the Form I-94 from the I-94 Web site.

used as the primary source for an official name.

*Response:* CBP has met with USCIS, DOS, and representatives from ICE's Student and Exchange Visitor Program (SEVP) to discuss naming conventions and to attempt to resolve inconsistencies. Currently, CBP creates the Form I-94 admission record using the name found in the MRZ of the passport, not the visa. APIS and CBP use standard International Civil Aviation Organization (ICAO) naming conventions. CBP will use FNU or LNU only when a traveler does not have both a given and surname.

*Comment:* A few commenters suggested that CBP establish additional resources to help address questions and correct errors. Specific suggestions included creating an ombudsman for the electronic Form I-94, creating a Web site with guidance, and establishing dedicated help lines and email addresses for use by travelers, employers, and other government agencies. Commenters were concerned that there was not a mechanism established for correcting errors in the electronic records and no access to the Web site at the time of entry into the United States.

*Response:* Although CBP does not have the resources to create a dedicated helpline or ombudsman, CBP has included additional guidance on the I-94 Web site under the FAQs tab. Travelers can check the passport admission stamp obtained at the time of entry into the United States to verify the correct date and class of admission, and ask the CBP officer to make corrections if needed.

CBP will correct any errors in Form I-94 records that originated with CBP at CBP's Deferred Inspection Sites (DISs). DISs, located at most major airports, will provide assistance to travelers requiring Form I-94 corrections or modifications. In many cases, corrections can be completed through a telephone call to a DIS. However, in some cases, the traveler may be required to appear in person in order to verify identity or to provide additional documentation to CBP. CBP has provided guidance and training to the CBP officers at the DISs about Form I-94 corrections. A list of all DISs can be found at <http://www.cbp.gov/document/forms/deferred-inspection-sites>.

Travelers may also visit the CBP INFO Center at <https://help.cbp.gov> for assistance. The INFO Center has staff dedicated to responding to Form I-94 issues. CBP has included a link to the CBP INFO Center on the Form I-94 retrieval Web site.

### Coordination With Other Agencies

*Comment:* Some commenters complained of disparate guidance from various government agencies concerning the automated Form I-94. For example, some commenters stated that the SSA published guidance indicating that either an unexpired admission stamp or a printout from the Form I-94 Web site will be accepted as proof of nonimmigrant status. USCIS, however, has published guidance on its Web site stating that USCIS and state DMVs will require a printout of the Form I-94. Further, one commenter noted that at least one DMV office still required a stamp on the Form I-94 and had not heard of the change to the automated Form I-94.

*Response:* CBP has conducted extensive outreach to other agencies and to DMVs regarding the automation of the Form I-94. The requirements of various federal and state agencies may differ for practical or legal reasons, resulting in some agencies being able to accept the admission stamp while others may still require a printout of the Form I-94. Per commenters' suggestions, CBP has added the following language on the Form I-94 printout to aid in educating stakeholders not familiar with the electronic Form I-94:

Effective April 26, 2013, DHS began automating the admission process. An alien lawfully admitted or paroled into the United States is no longer required to be in possession of a preprinted Form I-94. A record of admission printed from the CBP Web site constitutes a lawful record of admission. See 8 CFR 1.4(d).

*Comment:* Some commenters had particular concerns about completing USCIS's Form I-9, as that form requests the Form I-94 number. Commenters suggested that either the period of admission or the passport number and country of issuance serve as the required data fields on the Form I-9. Otherwise, workers without internet access will have trouble completing the Form I-9.

*Response:* USCIS, the owner of the Form I-9 (Employment Eligibility Verification), is reviewing its forms and applicable regulations and policies, but at this time, it is not able to change the required information on Section 1 of the Form I-9. For completion of Section 2 of Form I-9, employees who are aliens authorized for employment with a specific employer incident to their nonimmigrant status may choose to present their foreign passport together with Form I-94 in paper format (which includes a printout from the Web site); admission stamps are not acceptable for

Form I-9 purposes. Refugees and asylees may also choose to present Forms I-94 for completion of Section 2 and Section 3 of the Form I-9, although they also have the option to present other documents instead. Refugees may choose to present a Form I-94 printout or a paper Form I-94 with a refugee stamp as an acceptable receipt for Form I-9 purposes that does not need to be paired with any other document. Asylees who wish to show a Form I-94 may present their paper Form I-94 as a List C document in combination with a valid List B document.

*Comment:* A few commenters, including AILA and the Intel Corporation, were concerned that inconsistent rules regarding when a Form I-94 printout is acceptable will materially affect foreign nationals' access to employment and benefits, such as Social Security cards, driver's licenses and extensions or changes of nonimmigrant status. Commenters also said that inconsistent rules could adversely affect U.S. businesses; for example, if DHS continues to require printouts bearing an admission number, employers could be fined by DHS for failure to record this number on the Form I-9. A delay or grace period in any enforcement actions related to the I-9 regarding the entry of admission numbers is encouraged.

*Response:* The requirements to record document numbers on Section 2 of the Form I-9 have not changed. DHS regulations require employers to record the necessary information from documents the employee presents to complete Form I-9 within three days from the date of hire. Section 1 of Form I-9 requires employees who attest to being aliens authorized to work in the United States to record either their alien number (or USCIS number) or Form I-94 admission number. Section 1 of Form I-9 must be completed by the employee at the time of hire (*i.e.*, first day of work for pay). The Form I-94 number can be found on the Form I-94 printout; there is no requirement that the number must come from the Form I-94 itself. The timing requirements for Form I-9 completion are regulatory. DHS may provide more flexibility in the timing requirements in a future rulemaking.

Employees are still required to present documents of their choice from the Lists of Acceptable Documents specified in the Form I-9 to show identity and employment authorization on Form I-9. To satisfy 8 CFR 274a.2, original documents must be presented to employers, which employers must examine to make a determination regarding whether the documents appear to be genuine and to reasonably

relate to the person presenting them. According to USCIS, which issues the Form I-9, if an employee chooses to present a Form I-94 along with their foreign passport to show identity and employment authorization in Section 2 of the Form I-9, he or she will need to present to his or her employer a Form I-94 in paper format, which includes a Form I-94 printed out from the CBP Web site. If an employee provides the Form I-94 he or she obtained from the CBP Web site with his or her foreign passport as a List A document, the employer should accept these documents if they appear to be genuine and reasonably relate to the person presenting them. Form I-9 rules permit employees to present certain receipts in lieu of the original document(s): 1. A receipt for a replacement of a lost, stolen, or damaged document; 2. the arrival portion of the Form I-94 or Form I-94A containing a Temporary I-551 stamp and photograph; and 3. the departure portion of Form I-94 or I-94A with an unexpired refugee admission stamp. 8 CFR 274a.2(b). USCIS has determined that a Form I-94 printed out from the CBP Web site by a refugee is acceptable for Form I-9 purposes without an unexpired refugee admission stamp as long as the printout provides the class of admission as "RE" and duration of admission as "D/S [duration of status]."

In the benefits-granting context, DHS will continue its outreach to other federal, State, and local agencies to indicate that when a Form I-94 is required as proof of valid admission to the United States, a Form I-94 in either paper or print-out format is acceptable.

*Comment:* Commenters encouraged CBP to continue education outreach to agencies, employers, and other stakeholders that might remain unaware of the change to electronic Forms I-94. Commenters specifically urged education to improve access to and use of DHS verification tools, such as SAVE and E-Verify.

*Response:* CBP has conducted extensive outreach to local, state, and federal agencies, scholarly organizations, and other non-governmental entities both before and after automation. CBP involved all DHS components, DOS, SSA, and the Department of Commerce in the automation process through working groups. CBP in conjunction with USCIS provided guidance and support to all major DMVs that participate in the SAVE program. CBP coordinated with NAFSA and other student organizations to inform academic institutions. CBP has met with the U.S. Chamber of Commerce, the travel and tourism

industry, refugee and asylum groups, local law enforcement representatives, and other interested organizations during planning and development of the electronic Form I-94.

Employers seeking employment eligibility verification can do so through the E-Verify program offered by USCIS. Government agencies have access to status verification or other inquiries through a variety of sources, including law enforcement channels and the SAVE program offered by USCIS.

#### SEVIS

*Comment:* One commenter, NAFSA, suggested that CBP should include the SEVIS number in the electronic Form I-94 record for nonimmigrants who are monitored through SEVIS. The commenter stated that this would further DHS's fulfillment of its responsibility to notify educational institutions and exchange program sponsors that the student has been properly admitted into the United States. The commenter noted that CBP officers often write the SEVIS number on the paper Form I-94 of F and M students and J exchange visitors, and that this notation is used by Designated School Officials and Responsible Officers to ensure that the POE information is associated with the correct SEVIS record.

Another commenter asked how the admission record will be tied to the proper SEVIS number, if a student has more than one SEVIS record. The commenter stated that this is of particular concern because CBP is no longer stamping the Form I-20 or DS-2019 upon entry in the United States, and there is no way that the student can make sure the correct SEVIS I-20 is getting mapped to the admission number.

*Response:* The Student and Exchange Visitor Information System (SEVIS) is utilized to track and monitor schools, exchange visitor programs, and F, M and J nonimmigrants while they visit the United States and participate in the U.S. education system. The SEVIS number is the number generated when a Form I-20 or Form DS-2019 is issued to an individual to participate in a specific educational or cultural exchange program at a specific institution. CBP currently verifies SEVIS numbers prior to admission into the United States. CBP now requires officers to document SEVIS numbers, if applicable, in the electronic Form I-94 record, but these numbers are not accessible to the public or academic institution. The SEVIS number is not currently documented on the Form I-94 Web site or printout, as it is not a data

element required or collected on the paper version of the Form I-94. CBP will explore the feasibility of including the SEVIS number on the Web site and printout. CBP has provided guidance to the field to include the SEVIS number on the foreign travel document with the CBP admission stamp when practical.

CBP has updated its systems to help ensure that the correct SEVIS record is mapped to the proper arrival/departure record. The SEVIS information is stored in CBP systems, and the Arrival and Departure Information System (ADIS) feeds information to SEVP for each student. CBP is continuing to work to enhance its systems to do a real-time query of the SEVIS number to prevent admission on an invalid SEVIS number.

*Comment:* One commenter requested that CBP establish a mechanism for Designated School Officials to request a review when there is a problem with a SEVIS record.

*Response:* If there is a problem with the SEVIS record, the Designated School Official should contact SEVP, which oversees SEVIS. SEVP would then work with CBP if SEVP determines that the problem relates to the electronic Form I-94 or is otherwise CBP-related. More information about SEVIS can be found on the SEVIS Web site: [www.ice.gov/sevis/](http://www.ice.gov/sevis/).

#### Additional Comments

*Comment:* A few commenters requested that CBP include additional information on the tear sheet that is handed out to travelers at the POEs to include the purposes of the Form I-94 and a help line phone number or email address. Commenters stated that not all foreign nationals understand the importance of the Form I-94 or how soon they might need to print one.

*Response:* CBP designed the tear sheet to fit into the traveler's passport and inform travelers, in 12 languages, how to access their Form I-94 records. Due to the size of the tear sheet and the desirability of including any information in multiple languages, CBP is not able to add additional information. Additionally, as the traveling public becomes more familiar with the Form I-94 automation, CBP plans to phase out distribution of the tear sheets.

*Comment:* One commenter asked when all nonimmigrants arriving in the United States by air or sea will be processed electronically.

*Response:* CBP rolled out the Form I-94 automation over the weeks following the effective date of the IFR, April 26, 2013. The Form I-94 automation for air and sea passengers is now complete.

*Comment:* One commenter asked if the 11 digit admission number from the Form I-94 will continue to be used in the electronic Form I-94 format and whether it will be provided to the traveler at the time of admission.

*Response:* The 11 digit number has not changed and will continue to be issued electronically to travelers. Travelers can use the I-94 Web site to find their Form I-94 number.

*Comment:* One commenter was concerned about travelers having notice of the option to request a paper Form I-94 from CBP. The commenter stated that requesting a paper form is not in the regulations and it is not clear if the traveler should make the request on the plane or at the POE.

*Response:* Travelers may request the paper form at the POE from the CBP officer. CBP has updated information on the Web site, [www.cbp.gov/194](http://www.cbp.gov/194), to indicate that a paper form may be requested at the time of inspection. If someone requests a paper form, the person will be given the card stock form, properly annotated, with their electronic Form I-94 number written on the card. Due to the extra time this process takes, issuance of a paper Form I-94 will be completed in the secondary inspection area. Conclusion

Based on the analysis of the comments received, DHS is adopting the interim regulations as a final rule. In response to the comments, CBP has made some operational changes regarding the issuance of the Form I-94 that are described below.

#### Operational Changes to the Form I-94 Process

In response to some public comments received, and after studying usage and common problems of the I-94 Web site, CBP has made some changes to the I-94 Web site since the initial rollout of the Form I-94 automation, including the addition of new features. These changes and new features are summarized below. As described in several of the comment responses, CBP believes these changes make the Web site a better resource for the public and address user concerns.

First, the Web site now allows a traveler to retrieve his or her most recent Form I-94 even if he or she has departed the United States. A traveler may retrieve a Form I-94 issued up to five years prior to the request date.

Second, a traveler may now retrieve his or her five-year United States border crossing history from the Web site. The border crossing history information is drawn from Form I-94 records. If a traveler has entered and departed the United States with more than one travel

document during the five years, for example an old and new passport, he or she will need to query each document to retrieve the complete five-year history. CBP expects that this update to the Web site will provide a convenient alternative to the filing of a FOIA request when a traveler needs his or her five-year border crossing history when applying for certain benefits.

Third, the date and class of admission are no longer required to retrieve a Form I-94, as these data points were commonly problematic for travelers attempting to retrieve their Form I-94. This change also allows travelers to input the same information to retrieve both the Form I-94 and the travel history.

Additional operational changes include a new security consent page that addresses both privacy and security issues, an endorsement added to the Form I-94 printout indicating that the Form I-94 has been automated, and updates to the FAQs page of the I-94 Web site to reflect these changes and to address additional common questions.

### Statutory and Regulatory Requirements

*Executive Order 13563 and Executive Order 12866 (Regulatory Planning and Review) and (Improving Regulation and Regulatory Review)*

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is an “economically significant regulatory action” under section 3(f)(1) of Executive Order 12866. Accordingly, the Office of Management and Budget has reviewed this regulation.

#### 1. Purpose of the Rule

This rule amends the definition of the Form I-94, Arrival/Departure Record, to include an electronic format. This revision enables DHS to transition to an automated process for air and sea ports of entry whereby DHS creates a Form I-94 in an electronic format based on passenger, passport, and visa information DHS obtains electronically from air and sea carriers and the Department of State as well as through the inspection process. This rule also is consistent with CBP’s transition to

accepting I-94 submissions online for use at the land border.

This rule results in substantial cost savings (benefits) for travelers, carriers, and CBP. CBP estimates the total net benefits to both domestic and foreign entities in 2013 ranged from \$57.9 million to \$82.7 million.<sup>8</sup> Separately, CBP estimates a net benefit in 2013 of between \$41.1 million and \$65.9 million for foreign travelers, \$1.3 million for carriers, and \$15.5 million for CBP. Net benefits to U.S. entities (carriers and CBP) in 2013 totaled \$16.8 million. In the following regulatory assessment, we present the costs and benefits to CBP, carriers, and travelers from Form I-94 automation using a six-year period of analysis beginning in year 2012.

#### 2. Baseline Condition and Affected Parties

##### a. Automation at the Air and Sea Ports of Entry

Prior to the implementation of the interim final rule CBP published on March 27, 2013 in the **Federal Register** (78 FR 18457), CBP required any alien traveling to the United States, other than under the Visa Waiver Program, to complete a paper Form I-94 prior to arrival. When arriving by air and sea, the carrier provided the form to the alien while en route to the United States. The alien typically completed the form while en route to the United States, spending approximately 8 minutes filling out the form.<sup>9</sup> Upon arrival at the U.S. airport or seaport, the alien presented the completed Form I-94 to the CBP officer for inspection. If permitted to enter the United States, the officer tore the form at the perforation, stamped the lower portion, and returned it to the alien. The officer sent the top portion of the form to a centralized facility where all Forms I-94 were entered into CBP’s data systems. Generally, the alien later returned the lower portion of the Form I-94 to the carrier upon departure from the United States, who in turn returned it to CBP.

In addition to acting as an arrival and departure record, the Form I-94 also serves as evidence of admission or parole into the United States for nonimmigrants. Some third parties,

<sup>8</sup> OMB Circular A-4 states regulatory analyses should focus on benefits and costs that accrue to citizens and residents of the United States ([http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory\\_matters\\_pdf/a-4.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/a-4.pdf)); see “Scope of Analysis” section on page 15). In order to make this distinction clear, CBP has shown the costs and benefits to foreign travelers as well as impacts to U.S. entities.

<sup>9</sup> See 78 FR 70570 (November 26, 2013) for the latest burden estimate for the Form I-94’s information collection.

such as universities or local or state government benefit-granting agencies, may require an alien to present evidence of admission or parole to the United States. Prior to the interim final rule, in these cases, the alien could present the bottom portion of the Form I-94, which was returned to them when they were admitted, paroled, or adjusted to an immigration status. Aliens could also choose to present Form I-94 to establish employment eligibility and identity or eligibility for certain public benefits.

If an alien loses the bottom portion of the Form I-94, he or she may file Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, with USCIS to request a replacement. The form has a Paperwork Reduction Act burden of 25 minutes per form and a fee of \$330. According to the USCIS, prior to the implementation of this rule, 17,700 Forms I-102 were filed each year. At the time the interim final rule was published, USCIS estimated that the rule would result in a decrease in the number of Forms I-102 filed to 8,804 in 2013 and 5,771 in later years.<sup>10</sup> Following the implementation of the rule in April 2013, the total number of Forms I-102 filed in 2013 was 13,715. USCIS now expects 6,782 Forms I-102 to be filed each year.<sup>11</sup> This is a reduction of 10,918 each year due to this rule.

According to the Office of Immigration Statistics (OIS),<sup>12</sup> about 53.9 million aliens entered the United States using a Form I-94 or equivalent (*i.e.* using a Form I-94W or obtaining an electronic travel authorization when entering under the Visa Waiver Program) in 2012. Of these, about 20.3 million entered under the Visa Waiver Program (VWP). These aliens do not use a Form I-94 and are therefore unaffected by this rule,<sup>13</sup> so we exclude them from this analysis. Additionally, OIS figures include all modes of transportation. I-94 automation affects only aliens

<sup>10</sup> Communication with USCIS on February 8, 2013.

<sup>11</sup> Supporting Statement for Form I-102. Available at [http://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=201402-1615-001](http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201402-1615-001). Accessed September 28, 2016.

<sup>12</sup> 2012 Yearbook of Immigration Statistics. Table 28. <https://www.dhs.gov/yearbook-immigration-statistics>. Accessed October 26, 2016.

<sup>13</sup> In addition to automating the Form I-94, this final rule adds a valid, unexpired nonimmigrant DHS admission or parole stamp to the list of documents that constitute evidence of registration. Thus, such a stamp can serve as evidence of registration for Visa Waiver Program travelers and for travelers arriving by land who would otherwise be required to comply with any registration requirement under the INA. However, the addition of the passport stamp to the list of documents that constitute evidence of registration does not have an economic impact on travelers. Therefore, this analysis focuses on the changes to the Form I-94.

arriving by air and sea, so we must exclude those arriving by land. We therefore subtract the number of aliens entering the U.S. at land border ports using a Form I-94 in 2012. According to CBP's Office of Field Operations, about 15.4 million aliens arriving from Mexico and 1.2 million arriving from Canada entered the United States at the land border using a Form I-94 in 2012. We subtract these from the admission total, leaving 16,952,996 non-VWP aliens who arrived in the U.S. by air or sea using a Form I-94 in 2012.

We next estimate the number of Form I-94 travelers to the United States in the rest of the period of analysis.<sup>14</sup> For 2013 and 2014, we again use actual data from the Office of Immigration statistics. For 2015 through 2017, we use the traveler projections developed by the Office of Travel and Tourism Industries (OTTI) within the U.S. Department of Commerce.<sup>15</sup> The OTTI forecasts travel growth through 2020 for the 20 countries with the highest 2014 travel volume. Since the vast majority of travelers from most countries arrive in the United States by air and sea, we assume that OTTI's travel growth rates best reflect air and sea travel growth. For Mexico and Canada, we subtract the number of Form I-94 travelers arriving by land in 2012 before applying the OTTI growth rates.<sup>16</sup> We apply the OTTI projected growth rates to the number of Forms I-94 by country we obtained from OIS. For countries not separately forecasted by OTTI, we use OTTI's average growth rate for overseas travel for each year to determine overseas travel from these countries. We present the total number of projected Forms I-94 for each year from 2012-2017 absent the rule in Exhibit 1 below.

**EXHIBIT 1—PROJECTED FORM I-94 RESPONDENTS TRAVELING BY AIR AND SEA**

[\*denotes projection]

2012 .....	16,952,996
2013 .....	16,832,602
2014 .....	20,680,611
2015 .....	21,700,329

<sup>14</sup> 2013 and 2014 Yearbook of Immigration Statistics. Table 28. <https://www.dhs.gov/yearbook-immigration-statistics>. Accessed October 26, 2016.

<sup>15</sup> U.S. Department of Commerce, Office of Travel and Tourism Industries "Forecast of International Travelers to the United States by Top Origin Countries." October 2015. Available at <http://travel.trade.gov/view/f-2000-99-001/forecast/Forecast-COUNTRIES.pdf>.

<sup>16</sup> For the purposes of these projections, we assume that aliens arriving from Mexico and Canada at land borders are Mexican and Canadian citizens. There are a small number of citizens of other countries who enter the U.S. at land borders. Because the number for each country is small, the effect on the projections is minimal.

**EXHIBIT 1—PROJECTED FORM I-94 RESPONDENTS TRAVELING BY AIR AND SEA—Continued**

[\*denotes projection]

2016 .....	22,628,579
2017 .....	23,871,524

**b. Electronic Implementation at the Land Border**

This rule affects the process of obtaining a Form I-94 for travelers arriving by air and sea and is consistent with CBP's transition to accepting I-94 submissions online for use at the land border. In addition to the automation at air and sea ports of entry, CBP modified the process by which a traveler arriving at the land border can provide Form I-94 information and pay the related fee by adding an electronic option. The enhanced I-94 Web site launched on September 29, 2016.

Due to the differences in documentary requirements for land border entries, the Form I-94 issuance process varies slightly at a land border port of entry than at an air or sea port of entry. Currently when a traveler requiring a Form I-94 arrives at the land border, he/she goes to secondary inspection where he/she provides the I-94 information to a CBP officer who inputs the data into a computer. The process takes approximately 8 minutes in addition to the time of the actual inspection. After determining the traveler's admissibility, the CBP officer then prints a Form I-94 for the traveler and refers him/her to the cashier to pay the associated \$6 fee.<sup>17</sup> It takes approximately 20 minutes to wait in line to pay the fee and approximately 2 minutes to pay the fee.

**3. Costs**

We next estimate the costs and benefits of this rule for all affected parties. For the interim final rule, we assumed that the rule would go into effect on January 1, 2013. The rule actually went into effect on April 22, 2013. Because certain key data on arrivals by class of admission is only available publicly on an annual basis, we incorporate some prorated arrivals estimates into this analysis. For the purpose of this analysis, we assume that the rule went into effect on May 1, 2013 and we prorate the 2013 estimates to reflect that the rule was in effect for 8 months of the year. To the extent that travel among various classes of admission is not consistent throughout the year, the 2013 estimates may be overstated or understated.

<sup>17</sup> The amount of fee for the issuance of the Form I-94 at a land border port of entry is provided for in 8 CFR 103.7(b)(1)(ii)(D).

The costs of this rule are borne by both CBP and aliens traveling to the United States.

**a. Costs to CBP of Automation at the Air and Sea Ports of Entry**

This rule allows for the automation of the paper Form I-94 in the air and sea environments.<sup>18</sup> Almost all of the traveler information collected on the Form I-94 prior to the implementation of this rule was redundant in the air and sea environments because CBP already obtained the same information electronically from other sources. In advance of the implementation of this rule, CBP linked its data systems to use the information from these alternate sources to create an electronic Form I-94 during the admission process. CBP creates the electronic Form I-94 by pulling information from the traveler's Advance Passenger Information System (APIS) record and any Consular Consolidated Database (CCD) record and then by entering any additional data obtained during the inspection process. This electronic process allows stakeholders that have access to CBP's databases to continue to have access to traveler information electronically. CBP's Office of Information Technology estimates the cost to link data systems and to fully automate the Form I-94 was about \$1 million in calendar year 2012. In addition, it estimates the cost to develop the secure Web site was about \$321,000 in 2012. CBP anticipates spending \$92,000 per year in operations and maintenance costs for these systems. In total, CBP incurred costs of \$1,321,000 in 2012 and will incur costs of \$92,000 in following years.

**b. Costs of Electronic Implementation at the Land Border**

CBP's Office of Information Technology estimates that it cost approximately \$540,000 in 2016 to develop the Web site and create the online payment capabilities. CBP will not bear any additional costs to process travelers as a result of this process.

Travelers will not face new costs or time burdens under the new optional process at the land border. Under this process, travelers will have the option to use a new CBP Web site to answer the Form I-94 questions and to pay the \$6 fee in advance of travel. As the Form I-94 questions are not changing, the time burden to submit the information is not changing. Similarly, we estimate that it will take the traveler 2 minutes to pay the fee online, which is the same as the

<sup>18</sup> A small number of paper Forms I-94 are still being used for certain aliens such as asylees, certain parolees, and those who request a paper Form I-94.

time it takes if the traveler pays at the border, and the fee itself is not changing.

c. Costs Borne by Travelers to the United States From Automation at Air and Sea Ports of Entry

Although most travelers do not use the Form I-94 for any reason once they are admitted or paroled to the United States, some aliens do make use of the form to demonstrate lawful admission or parole to the United States to the Social Security Administration, universities, state agencies such as Departments of Motor Vehicles, public assistance agencies and organizations, or some other party.

Aliens may also choose to present a Form I-94 to establish employment eligibility and identity, or eligibility for certain public benefits. To accommodate this need for the Form I-94, CBP has made an electronic Form I-94 available to aliens on the secure I-94 Web site. Travelers receive written information on how to access the Web site upon their arrival to the United States. Aliens may log into the Web site using 5 pieces of basic identifying information that is either known to the traveler (e.g. their first name, last/surname, and date of birth) or readily available on their passport (e.g. passport number, country

of issuance). CBP estimates that it takes the traveler 4 minutes to log into the Web site using identifying information and to print the electronic form. This is less time than the paper Form I-94's 8 minute time burden for entering 17 data elements. This 4 minute estimate does not include the time it takes to travel to a location with computer and internet access; that cost is treated separately later in this section.

In addition, CBP makes the paper Form I-94 available to certain classes of aliens and upon request at the secondary inspection station at ports of entry and at CBP Deferred Inspection Sites (DIS), which are located at most ports of entry and are largely open during regular business hours. Since the interim final rule went into effect, very few travelers have requested the paper form.

To estimate the costs to travelers to access their Form I-94 electronically, we must first determine the number of aliens who access the Web site, the number who do not have ready access to the internet, the distance they have to travel to access the internet, and the average wage rate for all aliens entering the United States by air or sea. First, we assess the number of aliens who access the Web site. Exhibit 2 shows the

number of travelers who entered the United States by air or sea in 2012 sorted by various categories of admission.<sup>19</sup> The majority of Form I-94 visitors to the United States—about 76 percent—are tourists and business travelers entering on B-1/B-2 visas. In most cases, these travelers do not have a need for their Form I-94 now that the passport stamp serves as evidence of alien registration. While in the U.S., these B-1/B-2 visa travelers may use their foreign driver's license, so there is generally no need for them to apply for a U.S. driver's license. They are ineligible for employment or enrollment in a university while traveling on a B-1/B-2 visa. They are generally not eligible for public benefits without a change in status. For these reasons, for the analysis for the interim final rule, we assumed that no B-1/B-2 visa holders would need to access the Web site to obtain their electronic Form I-94. However, public comments stated that some B-1/B-2 travelers do in fact need their Form I-94. According to the Web site's query history, approximately 1 percent of B-1/B-2 travelers access the Web site.<sup>20</sup> Therefore, for this analysis, we assume that 1 percent of these travelers will continue to access the Web site in the future.

EXHIBIT 2—2012 AIR AND SEA FORM I-94 RESPONDENTS BY CLASS OF ADMISSION \*

	Number	Percentage
Tourists and Business Travelers (B-1/B-2) .....	12,938,329	76.3
Temporary workers .....	1,631,683	9.6
Students .....	1,594,816	9.4
Other/Unknown .....	461,935	2.7
Diplomats .....	326,233	1.9
Total .....	16,952,996	.....

\* Estimates may not total due to rounding.

Because so many parties at various levels of government and outside of the government use the Form I-94, prior to the implementation of the interim final rule CBP could not estimate the number of non-B-1/B-2 travelers that would access the Web site. For the analysis of the interim final rule, we assumed that all travelers, other than B-1/B-2 travelers, who previously received a paper Form I-94 would log into the Web site to print off their electronic Form I-

94. According to the Web site's query history since the implementation of the interim final rule, approximately 75 percent of non-B-1/B-2 travelers access the Web site. Exhibit 3 shows the number of travelers we estimate will access their electronic Form I-94 via the CBP Web site during the period of analysis. We note that those with a need for a Form I-94 who face obstacles to accessing their Form I-94 electronically may request a paper Form I-94 at the

secondary inspection station upon their arrival at the port or at a DIS during their stay in the United States. However, according to CBP subject matter experts, very few aliens have requested paper Forms I-94 at the ports of entry and those who have requested them at DIS have done so primarily to correct erroneous information on their electronic Form I-94.

EXHIBIT 3—ESTIMATED TRAVELERS NEEDING TO ACCESS ELECTRONIC FORM I-94

	B-1/B-2	Other *	Total
2012 .....	0	0	0

<sup>19</sup> CBP analysis of data from 2012 Yearbook of Immigration Statistics. Table 28. <http://www.dhs.gov/files/statistics/publications/yearbook.shtm>. Accessed June 4, 2014.

<sup>20</sup> Communication with CBP's Office of Field Operations on June 10, 2014.

## EXHIBIT 3—ESTIMATED TRAVELERS NEEDING TO ACCESS ELECTRONIC FORM I-94—Continued

	B-1/B-2	Other*	Total
2013** .....	85,622	1,994,663	2,080,285
2014 .....	157,793	3,675,979	3,833,772
2015 .....	165,574	3,857,233	4,022,807
2016 .....	172,656	4,022,230	4,194,886
2017 .....	182,140	4,243,163	4,425,303

\* Other includes temporary workers, students, diplomats, and others/unknowns.

\*\* 2013 travelers are estimated based on the rule being in effect for two thirds (8 months) of the year.

We next estimate the number of aliens who do not have ready access to the internet while in the United States and would need to travel to access their electronic Form I-94. We assume that students and diplomats have ready access to the internet at their schools or places of business respectively. The 1 percent of B-1/B-2 travelers who access their electronic Form I-94 typically need it when staying in the United States for over 6 months. These people likely have other uses for the internet during their stay and could access their electronic Form I-94 when using the internet for another purpose. Therefore, we assume they do not need to travel to access their electronic Form I-94. Also, as noted above, CBP will continue to make the paper Form I-94 available upon request at the secondary inspection station at ports of entry or at DIS to those with a need for a Form I-94 and who face obstacles to accessing their electronic Form I-94.

Temporary workers come to the United States for varying lengths of time to fill positions where there is a shortage of labor in the United States. These positions can be in very highly technical occupations, such as computer programming, but they can also be in less technical occupations such as agricultural labor.

Because this category of admission includes such a wide range of workers, we cannot say with certainty that all temporary workers have ready access to the internet while in the United States. Similarly, we do not know how accessible the internet is for those in the "Other/Unknown" category. The aliens least likely to have internet access are those working as temporary agricultural laborers.

According to the U.S. Department of Agriculture (USDA), approximately 67 percent of farms have internet access.<sup>21</sup> The primary use for the electronic Form I-94 for these temporary workers is to

demonstrate employment eligibility to their employers. Generally, this document will be the only acceptable evidence of employment authorization that such workers will have to satisfy the Employment Eligibility Verification (Form I-9) requirements. Because of the Form I-9 requirements, many employers do not allow their employees to begin working for pay until the workers have presented them with the print-out of their electronic Form I-94. The employers have spent a considerable amount of money bringing these foreign workers to the United States to work. By offering internet access to employees, employees and employers can complete the employment eligibility verification process timely, which allows the employee to begin working sooner. Because this incremental use of the internet is virtually costless to the employer and the employer would benefit from their employee's prompt access to their electronic Form I-94, we assume that employers with internet access allow their employees to use their internet connection to access their electronic Forms I-94.<sup>22</sup> As stated previously, 67 percent of farms have internet access. For the purposes of this analysis, we assume that 33 percent (100 percent-67 percent) of travelers in the "Temporary Workers" and "Other/Unknown" categories (for example, 690,894 in 2012) would need to travel to access their electronic Form I-94.

CBP received several public comments regarding the ability of travelers to obtain their printed electronic Form I-94 before they need it. One employer of temporary workers commented that according to their company policy, employees cannot use company computers to access the

internet until they have demonstrated their legal admission to the United States by presenting a copy of their Form I-94.

While CBP believes that most employers with internet access allow their employees to use a company computer to access their Form I-94, we acknowledge that a small number of employers may choose not to do so, or company policy may prohibit non-employees from accessing company equipment. These travelers are included in the 33 percent of temporary workers who we assume have to travel to access the internet.

One commenter noted that employees sometimes need to start work very soon after arrival and do not have time to travel to a location where they can print their electronic Form I-94. Once again, CBP notes that any traveler, but particularly travelers with an immediate need for their Form I-94 may request a paper Form I-94 at the secondary inspection station at ports of entry or at CBP DIS. Another commenter said that travelers often do not know they need a Form I-94 until after they have left the airport, so requesting a paper Form I-94 at the port is not a practical option. CBP acknowledges that many people may not know that they need their Form I-94 until it is asked of them. As such, CBP has made access to the I-94 Web site as easy as possible and will continue to provide paper Forms I-94 upon request at CBP DIS. Another commenter suggested that CBP provide kiosks at the ports of entry where travelers could print their electronic Form I-94 prior to leaving the airport. CBP has explored the possibility of placing kiosks at the largest airports and seaports to give travelers the opportunity to print their Form I-94 prior to leaving the port of entry. CBP has determined that the benefits to the public do not outweigh the cost to CBP, so it is not proceeding with kiosks at this time. See the Regulatory Alternatives section for more information.

Now that we have estimated the number of aliens who do not have ready access to the internet, we need to

<sup>21</sup> United States Department of Agriculture National Agricultural Statistics Service. "Farm Computer Usage and Ownership." August 2013. Available at: <http://usda.mannlib.cornell.edu/usda/current/FarmComp/FarmComp-08-20-2013.pdf>. Accessed June 4, 2014.

<sup>22</sup> It is also possible that some employers without internet access help transport their employees to a location with internet access. Employers have expended considerable effort to sponsor temporary workers and they may view this as part of the cost of using foreign temporary workers. However, as the burden of demonstrating employment eligibility is on the worker, we assume that the worker must bear any travel costs to obtain their electronic Form I-94. To the extent that the employer is able to provide more efficient access to the internet, costs to workers will be lower.

develop an assumption for how long it takes to travel to a location where they can access the internet. Based on our online review of internet services provided by public libraries, we found that virtually all public libraries provide public access to computers and the internet, though many charge a nominal fee for printing. There are 16,766 public libraries in the United States.<sup>23</sup> According to the Department of Education, 94 percent of households live within 10 miles of a public library and 83 percent live within 5 miles of one.<sup>24</sup> Given the large number of library locations nationwide that provide access to the internet and the fact that CBP makes the paper Form I-94 available upon request at ports and DIS, we believe most aliens who travel to access the internet to print their electronic Form I-94 only need to travel a short distance to do so. We estimate that round-trip distance required to access a computer terminal and printing station at a public library is 20 miles. We also assume that traveling to and from a library takes 60 minutes of an aliens' time, which includes travel time and the time to enter the library, locate an available computer, wait to access the computer and print a Form I-94. In this analysis, we assume that users pay \$0.25 to print their electronic Form I-94 based on a review of available online printing fees charged at public libraries.

We next estimate the value of time for those travelers affected by this rule. Federal agencies typically estimate a monetary value of time used or saved as a result of their regulatory actions. This allows agencies to estimate the additional costs and benefits of their regulatory actions on affected parties. The U.S. Department of Transportation (DOT) provides guidance on the value of time to use for economic analysis.<sup>25</sup> This guidance provides point estimates as well as ranges for values of time for travelers based on average wage rate analysis for different categories of travel.

According to DOT estimates, the value of travel time is more than twice as high for air travelers than for those traveling by surface modes, which can

be explained by the relatively high cost of air travel. We note that the DOT estimates are intended to be used to analyze actions that will reduce the time spent traveling. A person's value of time while traveling may differ from their value of reducing travel time. In most instances, this rule does not reduce the time spent traveling because an alien typically completes the Form I-94 while en route to the United States, but rather reduces the time spent on paperwork while traveling. The traveler is now able to spend this time on leisure or business activities such as reading or drafting documents. CBP believes that using the DOT values of travel time in this situation is the most appropriate estimate because it reflects the higher values of time for air travelers. Further, we note that to the extent a person's value of time while traveling is different than their value of reducing travel time, this difference is likely encompassed in the DOT plausible range for the value of travel time. The DOT estimates are in 2009 dollars, but the DOT provides a methodology to inflate its estimates for future years. We have inflated the estimates to 2012 dollars, which is the first year of our period of analysis.<sup>26</sup>

As a primary estimate, we use the DOT's point estimate for the value of time for all-purpose air travel, which includes both personal and business travel. This point estimate is \$44.15, when inflated to 2012 dollars. We also use the DOT's range for all-purpose travel to show a range of low and high estimates. This range is from \$36.50 to \$54.75 when inflated to 2012 dollars. We apply these low, primary, and high values of time to the travelers in our analysis. We use this travel value of time framework to estimate the costs and savings of this rule, since affected aliens previously completed the paper Form I-94 while traveling.

We recognize that those who must travel to access the internet are a special case of travelers and probably have different values of time than the average air traveler. As previously discussed, the aliens least likely to have internet access are those working as temporary agricultural laborers. To estimate the value of time for these aliens, we use the wage rate for H-2A seasonal (temporary) agricultural workers.

According to the Department of Labor, H-2A temporary agricultural workers have an average wage rate of 9.79 per hour.<sup>27</sup> We recognize that there are

other classes of temporary workers, notably H-1B visa holders, who likely have higher wage rates; however, these workers are predominantly in specialized occupations such as medicine and computer programming and are likely to have ready access to the internet. Employers of these employees have an incentive to provide this access as it is virtually costless and would allow workers to start working earlier. We note that, notwithstanding the benefits to the employer of providing this access, we received public comments indicating that some employers of H-1B employees may not allow their workers to access computers to print their electronic Form I-94. CBP does not believe this represents a large number of employers.

Further, workers in occupations such as medicine and computer programming are likely to have internet access from other sources, such as their hotel or other place of lodging. Finally, as discussed above, we have assumed that all temporary workers would access their electronic Form I-94 and that 33 percent of them would have to travel to do so. Any H-1B worker who must travel to access their electronic Form I-94 is included in these estimates. But because we do not believe the H-1B workers make up a large portion of the temporary workers who must travel to access their electronic Form I-94, we use the estimated wage of H-2A workers as our estimate for the value of time for those who must travel to access their electronic Form I-94.

Now that we have estimated the number of aliens who log into CBP's Web site to print their electronic Form I-94, the time it takes to access that Web site, the number of people who need to travel to access the internet, the time it takes to travel to and from an internet access site, and the values of time for these groups, we can calculate this rule's cost to these travelers. We first address the cost to log into CBP's electronic Form I-94 Web site. Once again, CBP estimates that it takes travelers 4 minutes to access and print their electronic Form I-94, and that it costs them \$0.25 per page to print their electronic Form I-94. Exhibit 4 shows the 2013 to 2017 travelers' costs for accessing and printing their electronic Forms I-94.<sup>28</sup> As shown, in 2013,

weighted average of state average wage rates. Available at: <http://www.foreignlaborcert.doleta.gov/pdf/OFLC-2012-Annual-Report-11-29-2013-Final%20Clean.pdf>. Accessed on June 16, 2014.

<sup>28</sup> The annual estimates of Forms I-94 in Exhibit 4 are based on projections for all visa categories using growth rate estimates developed OTTI. We adjust these estimates using our assumptions that

<sup>23</sup> American Library Association. "Quotable Facts about America's Libraries." September 2012. <http://www.ala.org/offices/ola/quotablefacts/quotablefacts/>. Accessed Jun 13, 2014.

<sup>24</sup> Department of Education: Households' Use of Public and Other Types of Libraries: 2002. Derived from Table 19. Available at <https://harvester.census.gov/imls/pubs/Publications/2007327.pdf>. Accessed June 4, 2014.

<sup>25</sup> U.S. Department of Transportation: "Revised Departmental Guidance on Valuation of Travel Time in Economic Analysis." September 28, 2011. Table 5. Available at [http://www.dot.gov/sites/dot.dev/files/docs/vot\\_guidance\\_092811c.pdf](http://www.dot.gov/sites/dot.dev/files/docs/vot_guidance_092811c.pdf). Accessed June 4, 2014.

<sup>26</sup> To determine the hourly value of travel time savings in 2012 U.S. dollars, we applied the DOT's suggested growth rate of 1.6 percent per year to the hourly time values listed in 2009 U.S. dollars.

<sup>27</sup> Calculated from the Office of Foreign Labor Certification's FY 2012 Annual Report using the

traveler costs of time to access electronic Forms I-94 and their cost to print them ranged from \$5.5 million to \$8.1 million with a primary estimate of \$6.6 million.

**EXHIBIT 4—TRAVELER COSTS OF TIME TO ACCESS AND COST TO PRINT ELECTRONIC FORM I-94**  
[Undiscounted 2012\$]\*

	2013	2014	2015	2016	2017
Forms I-94 .....	2,080,285	3,833,772	4,022,807	4,194,886	4,425,303
DOT—Low (\$) .....	36.50	36.50	36.50	36.50	36.50
DOT—Primary (\$) .....	44.15	44.15	44.15	44.15	44.15
DOT—High (\$) .....	54.75	54.75	54.75	54.75	54.75
Time Cost—Low (\$) .....	5,061,648	9,328,146	9,788,098	10,206,792	10,767,432
Time Cost—Primary (\$) .....	4,730,513	8,147,564	7,990,003	7,786,713	7,677,030
Time Cost—High (\$) .....	4,914,222	8,792,673	8,957,496	9,068,603	9,288,081
Printing Cost (\$) .....	520,071	958,443	1,005,702	1,048,722	1,106,326
Total Cost—Low (\$) .....	5,581,720	10,286,589	10,793,800	11,255,514	11,873,758
Total Cost—Primary (\$) .....	6,643,502	12,243,356	12,847,050	13,396,594	14,132,443
Total Cost—High (\$) .....	8,112,544	14,950,663	15,687,848	16,358,910	17,257,474

\* Estimates may not total due to rounding.

We next address the travel costs for those aliens who do not have ready access to the internet. Once again, we assume that 33 percent of travelers in the “Temporary Workers” and “Other/Unknown” categories (approximately 12 percent of the total, see exhibit 2) would

need to travel 20 miles roundtrip and spend 60 minutes of time to access their electronic Form I-94. We also assume that these travelers have a value of time best characterized by the average H-2A wage rate of \$9.79 per hour. For the cost of travel, we use the 2012 IRS standard

mileage rate for business travel of \$0.555 per mile.<sup>29</sup> Exhibit 5 shows the 2013 to 2017 aliens’ travel costs to access the internet. As shown we estimate that the total travel costs were \$9.3 million in 2013.

**EXHIBIT 5—TRAVEL COSTS \***

	2013	2014	2015	2016	2017
Affected Aliens .....	444,381	818,952	859,333	896,092	945,312
H2A Wage Rate (\$) .....	9.79	9.79	9.79	9.79	9.79
Time Cost (\$) .....	4,350,487	8,017,542	8,412,870	8,772,738	9,254,608
Mileage Cost (\$) .....	4,932,626	9,090,369	9,538,597	9,946,618	10,492,967
Total Travel Cost (\$) .....	9,283,113	17,107,912	17,951,467	18,719,357	19,747,575

\* Estimates may not total due to rounding. Undiscounted dollars.

To summarize, both CBP and aliens bear costs as a result of this rule. CBP bore the costs to link its data systems and to build a Web site so aliens can access their electronic Forms I-94. CBP continues to incur annual costs to operate and maintain the I-94 Web site. Temporary workers and aliens in the “Other/Unknown category (see Exhibit 2) bear costs when logging into the Web site, traveling to a location with public internet access and printing a paper copy of their electronic Form I-94. The costs averaged \$24.08 per traveler in

2013 for those in the temporary worker and “Other/Unknown” categories who have to travel to access their electronic Form I-94. Aliens arriving as B-1/B-2 travelers, diplomats, students, and those temporary workers and aliens in the “Other/Unknown” category who do not need to travel to access their Form I-94 bear costs when logging into the Web site and printing electronic Forms I-94. Using the primary estimate for a traveler’s value of time, these costs for these groups averaged \$3.19 per person.

Exhibit 6 summarizes the 2012–2017 costs of this rule. As shown, costs for this rule in 2013 ranged from \$15.0 million to \$17.5 million. In our primary estimate, costs for this rule are \$16.0 million in 2013. Less than one percent of these costs are incurred by the U.S. entities. These are CBP’s costs for automating the electronic Form I-94 and developing the Web site travelers use to access their electronic Form I-94. In 2013, CBP’s costs were \$92,000.

**EXHIBIT 6—COST SUMMARY**

[Undiscounted 2012\$]\*

	2012	2013	2014	2015	2016	2017
CBP Costs						
I-94 Air/Sea Systems Costs .....	1,321,000	92,000	92,000	92,000	92,000	92,000

1 percent of B-1/B-2 travelers and 75 percent of non-B-1/B-2 travelers access the I-94 Web site.

<sup>29</sup> Internal Revenue Service. IR-2011-116, December 9, 2011. Available at <http://www.irs.gov/newsroom/article/0,,id=250882,00.html>.

EXHIBIT 6—COST SUMMARY—Continued  
[Undiscounted 2012\$]\*

	2012	2013	2014	2015	2016	2017
I-94 Land Systems Costs .....					540,000	0
Total CBP Costs .....	1,321,000	92,000	92,000	92,000	632,000	92,000
Traveler Costs						
Website Access Costs—Low .....	0	5,061,648	9,328,146	9,788,098	10,206,792	10,767,432
Website Access Costs—Primary .....	0	6,123,431	11,284,913	11,841,348	12,347,872	13,026,117
Website Access Costs—High .....	0	7,592,473	13,992,220	14,682,147	15,310,188	16,151,148
Travel Time Costs .....	0	4,350,487	8,017,542	8,412,870	8,772,738	9,254,608
Mileage Costs .....	0	4,932,626	9,090,369	9,538,597	9,946,618	10,492,967
Printing Costs .....	0	520,071	958,443	1,005,702	1,048,722	1,106,326
Total Traveler Costs—Low .....	0	14,864,832	27,394,501	28,745,266	29,974,870	31,621,333
Total Traveler Costs—Primary .....	0	15,926,615	29,351,267	30,798,517	32,115,950	33,880,018
Total Traveler Costs—High .....	0	17,395,656	32,058,574	33,639,315	35,078,266	37,005,049
Grand Total Costs—Low .....	1,321,000	14,956,832	27,486,501	28,837,266	30,606,870	31,713,333
Grand Total Costs—Primary .....	1,321,000	16,018,615	29,443,267	30,890,517	32,747,950	33,972,018
Grand Total Costs—High .....	1,321,000	17,487,656	32,150,574	33,731,315	35,710,266	37,097,049

\* Estimates may not total due to rounding.

4. Benefits

a. Benefits of Automation at Air and Sea Ports of Entry

This rule has benefits for CBP, carriers, and travelers to the United States. Prior to the implementation of the interim final rule, CBP returned the bottom portion of the Form I-94 to the traveler and retained the top portion of the form. The information on the top portion of the form was entered into CBP systems for use by CBP and other agencies. CBP also received this information electronically from other sources. In 2012, CBP linked its data systems to create an electronic Form I-94, thus eliminating the need to continue entering the data from the paper Form I-94 for air and sea travelers into CBP systems. Prior to the implementation of the interim final rule, CBP spent approximately \$17.8 million per year on contract support for manual Form I-94 data entry. CBP still must spend approximately \$2.4 million in contract expenses to enter data from the paper Forms I-94 collected at the land border and the few that continue to be collected at airports and seaports. We therefore estimate that this rule saves CBP \$15.4 million each year in contract costs. It is possible that these savings could grow in future years if large numbers of travelers at the land border opt for the voluntary electronic option.

CBP processing has also become more efficient as a result of this rule. Prior to the implementation of the interim final rule, when the traveler gave the completed Form I-94 to the CBP officer during the inspection, the officer reviewed the form for errors and made corrections as needed. The officer then stamped the top and bottom portions of

the form with the admission or parole stamp, notated the alien’s classification and duration of admission or parole and stapled it to the traveler’s passport. The interim final rule eliminated this process.

A study of the processing times at three major U.S. airports immediately following the implementation of the interim final rule yielded mixed results; one airport showed a decrease in processing time following the change in process, another showed an increase, and the third showed no statistically significant difference in processing times. We note that CBP has since resolved some technical issues with the user interface design of the system used by CBP officers during primary inspection that arose with the automated process. CBP has anecdotal evidence that processing times have now dropped nationwide as a result of the transition to the automated Form I-94 process.

CBP is conducting a more comprehensive time study that will examine the entire time period following the implementation of the automated process, but results of this study are not yet available. Accordingly, for the purposes of this analysis, we assume that this rule will not affect CBP processing times. To the extent that eliminating the paper Form I-94 reduced processing times, CBP was able to focus its resources on other areas, improving security and expediting the processing of passengers.

We next examine the printing savings this rule generates for CBP and carriers. Prior to the implementation of the interim final rule, both CBP and carriers printed and stored Forms I-94. CBP printed forms for use in primary and

secondary passenger inspections when the traveler did not fill out a form in advance or when the traveler made an error in filling out the form. Prior to this rule, CBP spent \$153,360 each year printing the Form I-94 for air and sea travelers. Since the interim final rule’s implementation, CBP no longer needs to print the Form I-94 for most of these travelers,<sup>30</sup> which eliminates this expense.

Before the implementation of the interim final rule, carriers printed the Forms I-94 for their passengers to complete before their arrival in the United States. To estimate printing costs for carriers, CBP obtained an estimate of total Form I-94 printing and storage costs from a major airline. We increased this cost proportionally based on annual international inbound passenger volumes to estimate the entire industry’s cost to print and store paper Forms I-94. Based on this methodology, CBP estimates that carriers spent \$1,344,450 annually to print and store the Form I-94. Since the interim final rule’s implementation, carriers no longer need to print or store the Form I-94, which eliminates these expenses.

We next estimate the value of air and sea travelers’ time savings resulting from the elimination of the paper Form I-94. Prior to the implementation of the interim final rule, travelers spent 8 minutes filling out the Form I-94 while in transit to the United States. This rule eliminates the paper Form I-94 for air and sea travelers and, with it, the 8-

<sup>30</sup> CBP still prints a small number of forms for use at airports and seaports for certain aliens such as asylees, certain parolees, and those who request a paper Form I-94.

minute time burden.<sup>31</sup> We again apply the DOT range of plausible values of time for air travelers, as well as their point estimate for this value, to these aliens to determine the time savings

from the Form I-94 automation. Exhibit 7 shows the 2013 to 2017 travelers' reduction in time burden resulting from no longer needing to fill out the paper Form I-94. As shown, in 2013, the value

of the reduction in time burden ranged from \$54.6 million to \$81.9 million. In our primary estimate, the reduction in time burden was \$66.1 million in 2013.

EXHIBIT 7—REDUCTION IN TIME BURDEN\*

	2013	2014	2015	2016	2017
Forms I-94 .....	11,221,734	20,680,611	21,700,329	22,628,579	23,871,524
DOT—Low (\$) .....	36.50	36.50	36.50	36.50	36.50
DOT—Primary (\$) .....	44.15	44.15	44.15	44.15	44.15
DOT—High (\$) .....	54.75	54.75	54.75	54.75	54.75
Benefit—Low (\$) .....	54,608,355	100,638,110	105,600,365	110,117,513	116,166,058
Benefit—Primary (\$) .....	66,063,556	121,748,978	127,752,166	133,216,876	140,534,225
Benefit—High (\$) .....	81,912,532	150,957,166	158,400,547	165,176,269	174,249,087

\* Estimates may not total due to rounding.

We next examine the savings to aliens who need a replacement Form I-94. Prior to the implementation of the interim final rule, if aliens lost the bottom portion of their Form I-94, they could file Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, with USCIS to request a replacement. The form has a Paperwork Reduction Act

burden of 25 minutes per response and a fee of \$330. As stated earlier, prior to the implementation of the interim final rule, 17,700 Forms I-102 were filed annually. In 2013, 13,715 Forms I-102 were filed and USCIS expects 6,782 to be filed each year starting in 2014, a reduction of 10,918 each year due to this rule. Now these travelers are able to access their electronic Form I-94, which

saves these individuals 25 minutes and \$330.<sup>32</sup> We calculate the value of this time savings using USCIS's hourly wage estimate for Form I-102 filers of \$30.74.<sup>33</sup> Exhibit 8 shows the time and fee cost savings for those who would otherwise have needed to file a Form I-102 from 2013 to 2017. As shown, in 2013 the value of this time and fee savings was \$1.4 million.

EXHIBIT 8—I-102 COST SAVINGS \*

	2013	2014	2015	2016	2017
I-102 Reduction .....	3,985	10,918	10,918	10,918	10,918
Time Burden .....	25	25	25	25	25
USCIS hourly wage (\$) .....	30.44	30.44	30.44	30.44	30.44
Time Savings (\$) .....	51,041	139,841	139,841	139,841	139,841
Fee Savings (\$) .....	1,315,050	3,602,940	3,602,940	3,602,940	3,602,940
<b>Total Savings (\$) .....</b>	<b>1,366,091</b>	<b>3,742,781</b>	<b>3,742,781</b>	<b>3,742,781</b>	<b>3,742,781</b>

\* Estimates may not total due to rounding. Undiscounted dollars.

Following the enactment of the interim final rule, travelers could only access their current electronic Form I-94 until they departed the United States. In response to public comments on the interim final rule, CBP has enhanced the Web site to allow travelers to access their most recent Form I-94 for 5 years from the date of issuance. In addition, the Web site now provides foreign travelers with a 5 year record of their travel history. Doing so has reduced Freedom of Information Act requests received by CBP by approximately 2 percent.

Accessing the information via the Web site can be done within minutes rather than the months it can take to

receive information from a FOIA request, which is a benefit to the traveler. In addition, this saves the CBP FOIA office time, which it can spend processing other FOIA requests. CBP is exploring whether it can expand the Web site to include travel history dating back farther than 5 years. CBP is also considering whether the Web site can be set up to include travel history for non-Form I-94 users such as U.S. citizens and legal permanent residents. CBP estimates that expanding the travel history past 5 years has reduced the number of FOIA requests received by approximately 6 percent and expanding it to include travel history for U.S. citizens and legal permanent residents

will reduce FOIA requests by an additional 20 percent.

In summary, CBP, carriers, and aliens accrue benefits as a result of this rule. CBP saves on contract and printing costs as well as FOIA processing burdens. Carriers save on printing costs. All aliens save the 8 minute time burden for filling out the paper Form I-94 and certain aliens who lose their Form I-94 save the \$330 fee and 25 minute time burden for filling out the Form I-102; and, certain aliens save processing time from the elimination of the FOIA process. Because we only expect one percent of B-1/B-2 travelers to use the Web site to access their electronic Form I-94, the benefits associated with the

<sup>31</sup> For those with a need to access their electronic Form I-94, this burden relief is partially offset by the 4 minute time burden to access the Web site. The costs for this access are discussed in the costs section above.

<sup>32</sup> As discussed in the costs section, we estimate a 4 minute time burden for travelers who need to

access their electronic Form I-94. See the cost section for a complete discussion of the costs of accessing the Web site as well as the cost to travel to a location where they can access the Web site, where necessary.

<sup>33</sup> USCIS estimates are based on U.S. Bureau of Labor data for occupational employment statistics.

The latest supporting statement for the I-102 is available at: [http://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=201206-1615-003](http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201206-1615-003). Accessed June 4, 2014. This supporting statement uses a wage estimate of \$30.74.

Form I-102 accrue primarily to non-B-1/B-2 travelers. Using the primary estimate for a traveler's value of time, the time burden savings for all travelers is \$5.89 per traveler. In addition, those

non-B-1/B-2 travelers who no longer need to use a Form I-102 would achieve an additional time and fee savings of \$343.81 per traveler. Exhibit 9 summarizes the benefits of air and sea

automation to each party. As shown, total benefits for this rule ranged from \$72.9 million to \$100.2 million in 2013. In our primary estimate, the benefits of this rule were \$84.3 million in 2013.

**EXHIBIT 9—BENEFIT SUMMARY**  
[Undiscounted 2012\$]\*

	2013	2014	2015	2016	2017
<b>CBP Benefits:</b>					
CBP Contract Savings .....	15,400,000	15,400,000	15,400,000	15,400,000	15,400,000
CBP Printing Savings .....	153,360	153,360	153,360	153,360	153,360
<b>Total CBP Benefits .....</b>	<b>15,553,360</b>	<b>15,553,360</b>	<b>15,553,360</b>	<b>15,553,360</b>	<b>15,553,360</b>
<b>Carrier Printing Savings .....</b>	<b>1,344,450</b>	<b>1,344,450</b>	<b>1,344,450</b>	<b>1,344,450</b>	<b>1,344,450</b>
<b>Traveler Benefits:</b>					
Form I-94 Time Savings—Low .....	54,608,355	100,638,110	105,600,365	110,117,513	116,166,058
Form I-94 Time Savings—Primary .....	66,063,556	121,748,978	127,752,166	133,216,876	140,534,225
I-94 Time Savings—High .....	81,912,532	150,957,166	158,400,547	165,176,269	174,249,087
Form I-102 Time Savings .....	51,041	139,841	139,841	139,841	139,841
Form I-102 Fee Savings .....	1,315,050	3,602,940	3,602,940	3,602,940	3,602,940
<b>Total Traveler Benefits—Low .....</b>	<b>55,974,446</b>	<b>104,380,892</b>	<b>109,343,146</b>	<b>113,860,294</b>	<b>119,908,839</b>
<b>Total Traveler Benefits—Primary .....</b>	<b>67,429,647</b>	<b>125,491,760</b>	<b>131,494,947</b>	<b>136,959,658</b>	<b>144,277,007</b>
<b>Total Traveler Benefits—High .....</b>	<b>83,278,624</b>	<b>154,699,947</b>	<b>162,143,329</b>	<b>168,919,051</b>	<b>177,991,868</b>
<b>Grand Total Benefits—Low .....</b>	<b>72,872,256</b>	<b>121,278,702</b>	<b>126,240,956</b>	<b>130,758,104</b>	<b>136,806,649</b>
<b>Grand Total Benefits—Primary .....</b>	<b>84,327,457</b>	<b>142,389,570</b>	<b>148,392,757</b>	<b>153,857,468</b>	<b>161,174,817</b>
<b>Grand Total Benefits—High .....</b>	<b>100,176,434</b>	<b>171,597,757</b>	<b>179,041,139</b>	<b>185,816,861</b>	<b>194,889,678</b>

\* Estimates may not total due to rounding.

**b. Benefits From Electronic Implementation at the Land Border**

Under the new voluntary electronic I-94 submission process at the land border, once the traveler arrives at the port, he/she will go through secondary inspection, as they do under the paper process, where the CBP officer will locate the traveler's information through a document swipe in CBP's database. This will indicate that the fee was paid and pre-populate the data fields from the document swipe and the information provided by the traveler in the Web site. Once the CBP officer has determined the traveler's admissibility, the CBP officer will print out a paper I-94 to give to the traveler. The traveler will already have paid the fee, so once he/she has cleared the secondary inspection he/she will be able to enter the United States.

This voluntary process is purely beneficial to any traveler who opts into it. By paying the fee online, the traveler avoids an average 20 minute wait to do so at the port of entry. Using our primary estimate for the value of travel

time of \$44.15, the value of this time savings is \$14.72 per traveler. As this process is just a few months old, CBP does not have data on how many travelers will opt to answer the Form I-94 questions and pay the fee online. CBP is engaging in public outreach to notify the public of the option, but only travelers who have access to a computer or other device with internet connectivity will be able to participate. In 2015, nearly 7 million travelers arrived in the United States at the land border using a Form I-94. CBP does not yet have sufficient data on how many travelers will opt for the online fee payment option. For the purposes of this analysis, CBP estimates that 5 percent of these travelers, or approximately 350,000, will opt for the advance I-94 information submission and payment process, for a total savings to travelers of \$5,152,000. To the extent that the reduction in CBP officer time inputting data and processing fees results in shorter wait times, travelers would have additional time savings benefits.

This process would save CBP 8 minutes of data input time and 2 minutes of fee processing time, a total of 10 minutes of CBP officer time per traveler. Based on the estimate that 350,000 travelers will opt for the advance I-94 information submission and payment, and using the fully loaded wage rate of a CBP Officer of \$85.47 per hour,<sup>34</sup> we estimate that this process would save CBP officers 58,333 hours and \$4,985,750. We note that this is a time savings that is monetized for analytical purposes and not a budgetary savings. This time savings could be spent on other priorities including reducing wait times. In addition, this rule would reduce the amount of cash being handled at ports of entry, which would simplify port of entry oversight and auditing.

**c. Aggregate Benefits**

Exhibit 10 shows the total benefits of the rule—both the benefits of air and sea automation and the land border implementation.

**EXHIBIT 10—BENEFIT SUMMARY**  
[Undiscounted 2012\$]\*

	2013	2014	2015	2016	2017
<b>CBP Benefits:</b>					
CBP Contract Savings .....	15,400,000	15,400,000	15,400,000	15,400,000	15,400,000
CBP Printing Savings .....	153,360	153,360	153,360	153,360	153,360

<sup>34</sup> Source: CBP Position Model.

## EXHIBIT 10—BENEFIT SUMMARY—Continued

[Undiscounted 2012\$]\*

	2013	2014	2015	2016	2017
CBP Time Savings .....	0	0	0	1,246,438	4,985,750
Total CBP Benefits .....	15,553,360	15,553,360	15,553,360	16,799,798	20,539,110
Carrier Printing Savings .....	1,344,450	1,344,450	1,344,450	1,344,450	1,344,450
Traveler Benefits:					
Form I-94 Time Savings—Low .....	54,608,355	100,638,110	105,600,365	110,117,513	116,166,058
Form I-94 Time Savings—Primary .....	66,063,556	121,748,978	127,752,166	133,216,876	140,534,225
I-94 Time Savings—High .....	81,912,532	150,957,166	158,400,547	165,176,269	174,249,087
Form I-102 Time Savings .....	51,041	139,841	139,841	139,841	139,841
Form I-102 Fee Savings .....	1,315,050	3,602,940	3,602,940	3,602,940	3,602,940
Land Process Time Savings .....	0	0	0	1,288,000	5,152,000
Total Traveler Benefits—Low .....	55,974,446	104,380,892	109,343,146	115,148,294	125,060,839
Total Traveler Benefits—Primary .....	67,429,647	125,491,760	131,494,947	138,247,658	149,429,007
Total Traveler Benefits—High .....	83,278,624	154,699,947	162,143,329	170,207,051	183,143,868
Grand Total Benefits—Low .....	72,872,256	121,278,702	126,240,956	133,292,542	146,944,399
Grand Total Benefits—Primary .....	84,327,457	142,389,570	148,392,757	156,391,905	171,312,567
Grand Total Benefits—High .....	100,176,434	171,597,757	179,041,139	188,351,298	205,027,428

\* Estimates may not total due to rounding.

## 5. Net Benefits

Exhibit 11 compares the costs of this rule to the benefits, both in total and for each party affected. As shown, in 2013,

CBP had a net benefit of \$15.5 million, carriers had a net benefit of \$1.3 million, and travelers had a net benefit of between \$41.1 and \$65.9 million. In our primary analysis, the net benefit to

travelers was \$51.3 million in 2013. Total 2013 net benefits ranged from \$57.9 million to \$82.7 million. In our primary analysis, the total net benefits were \$68.3 million in 2013.

## EXHIBIT 11—NET BENEFITS

[Undiscounted 2012\$]\*

	2012	2013	2014	2015	2016	2017
CBP .....	-1,321,000	15,461,360	15,461,360	15,461,360	16,167,798	20,447,110
Carriers .....	0	1,344,450	1,344,450	1,344,450	1,344,450	1,344,450
Travelers—Low .....	0	41,109,614	76,986,391	80,597,880	85,173,424	93,439,507
Travelers—Primary .....	0	51,503,032	96,140,493	100,696,430	106,131,707	115,548,989
Travelers—High .....	0	65,882,967	122,641,373	128,504,014	135,128,784	146,138,820
Grand Total—Low .....	-1,321,000	57,915,424	93,792,201	97,403,690	102,685,671	115,231,067
Grand Total—Primary .....	-1,321,000	68,308,842	112,946,303	117,502,240	123,643,955	137,340,549
Grand Total—High .....	-1,321,000	82,688,777	139,447,183	145,309,824	152,641,032	167,930,380

\* Estimates may not total due to rounding.

Exhibits 12 and 13 present the present value net benefits of this rule, discounted at the 3 and 7 percent discount rates. Exhibit 14 presents

annualized net benefits at the 3 and 7 percent discount rates. Total annualized net benefits range from \$73.4 million to \$111.8 million. In the primary analysis,

annualized net benefits range from \$88.1 million to \$90.9 million, depending on the discount rate used.

## EXHIBIT 12—NET BENEFITS DISCOUNTED AT A 3 PERCENT RATE

[2012 \$]\*

	2012	2013	2014	2015	2016	2017
CBP .....	-1,321,000	15,011,029	14,573,815	14,149,335	14,364,879	17,637,857
Carriers .....	0	1,305,291	1,267,273	1,230,362	1,194,526	1,159,734
Travelers—Low .....	0	39,912,246	72,567,057	73,758,478	75,675,484	80,601,739
Travelers—Primary .....	0	50,002,944	90,621,635	92,151,498	94,296,647	99,673,573
Travelers—High .....	0	63,964,046	115,601,256	117,599,376	120,060,175	126,060,630
Grand Total—Low .....	-1,321,000	56,228,567	88,408,145	89,138,174	91,234,889	99,399,330
Grand Total—Primary .....	-1,321,000	66,319,264	106,462,723	107,531,195	109,856,052	118,471,164
Grand Total—High .....	-1,321,000	80,280,366	131,442,344	132,979,073	135,619,580	144,858,221

\* Estimates may not total due to rounding.

EXHIBIT 13—NET BENEFITS DISCOUNTED AT A 7 PERCENT RATE  
[2012 \$]\*

	2012	2013	2014	2015	2016	2017
CBP .....	- 1,321,000	14,449,869	13,504,551	12,621,075	12,334,335	14,578,507
Carriers .....	0	1,256,495	1,174,295	1,097,472	1,025,674	958,574
Travelers—Low .....	0	38,420,200	67,242,895	65,791,878	64,978,397	66,621,077
Travelers—Primary .....	0	48,133,675	83,972,830	82,198,282	80,967,371	82,384,832
Travelers—High .....	0	61,572,866	107,119,725	104,897,553	103,089,103	104,194,959
Grand Total—Low .....	- 1,321,000	54,126,564	81,921,741	79,510,425	78,338,407	82,158,158
Grand Total—Primary .....	- 1,321,000	63,840,039	98,651,675	95,916,829	94,327,381	97,921,913
Grand Total—High .....	- 1,321,000	77,279,231	121,798,570	118,616,100	116,449,112	119,732,040

\* Estimates may not total due to rounding.

EXHIBIT 14—ANNUALIZED NET BENEFITS DISCOUNTED AT 3 PERCENT AND 7 PERCENT  
[2012 \$]\*

	3 Percent	7 Percent
CBP .....	13,336,885	12,973,485
Carriers .....	1,103,496	1,080,843
Travelers—Low .....	61,385,839	59,420,140
Travelers—Primary .....	76,481,844	74,047,524
Travelers—High .....	97,368,099	94,285,410
Grand Total—Low .....	75,826,220	73,474,468
Grand Total—Primary .....	90,922,226	88,101,852
Grand Total—High .....	111,808,481	108,339,738

\* Estimates may not total due to rounding.

While this rule has a large net benefit to travelers as a whole, it is important to note that the net benefits do not accrue uniformly across all travelers. We next examine the effect of this rule on each type of traveler. Exhibit 14 summarizes the costs and benefits per traveler for each class of alien discussed in this analysis. With this rule, no traveler needs to fill out the paper Form I-94 while en route to the United States, saving all travelers 8 minutes, an estimated \$5.89 per traveler. The 1 percent of B-1/B-2 travelers and 75

percent of other foreign travelers who need to access the Web site experience a cost of \$2.95 per person because of the 4 minute time burden to access the Web site. In addition, those who need to print their Form I-94 incur a \$0.25 printing cost. Those temporary workers and aliens in the “Other/Unknown” category who need to travel to access the Web site and print their Form I-94 have an additional travel cost. They need to travel an estimated 20 miles and 60 minutes round-trip to reach a location with internet access, at a cost

of \$20.89 per traveler. We reiterate that those with obstacles to accessing their electronic Forms I-94 may request a paper Form I-94 at secondary inspection stations at ports of entry or at CBP DIS. In addition, any travelers who would otherwise need to file a Form I-102 and pay the \$330 fee to obtain a replacement Form I-94 receive an additional benefit of \$342.81 as a result of this rule. Travelers who opt for the electronic filing option receive an additional benefit of \$14.72.

EXHIBIT 15—ANNUAL EFFECT OF RULE BY CLASS OF ALIEN  
[Undiscounted 2012\$]\*

	8 minute time cost savings	Cost of time to access & cost to print electronic Form I-94	Travel costs	Net impact**
Travelers who do not Access Website .....	5.89	0	0	5.89
1 percent of Tourists and Business Travelers (B-1/B-2) .....	5.89	- 3.19	0	2.70
75 percent of Students .....	5.89	- 3.19	0	2.70
75 percent of Temporary workers .....	5.89	- 3.19	- 20.89	- 18.21
75 percent of Other/Unknown .....	5.89	- 3.19	- 20.89	- 18.21
75 percent of Diplomats .....	5.89	- 3.19	0	2.70

\* Estimates may not total due to rounding.

\*\* In addition to this net impact, a small number of travelers experience savings resulting from no longer needing to file a Form I-102. The primary estimate of Form I-102 cost savings to travelers is \$342.81 per traveler. We do not include the Form I-102 cost savings in the net impact column of Exhibit 14 because few travelers benefit from this compared to the overall population of travelers impacted by the rule. Based on data from USCIS, we estimate that 10,918 Form I-102s per year are no longer need to be filed as a result of this rule. This is far less than one percent of the annual population of travelers affected by the rule (10,918 Form I-102s ÷ 20,815,527 travelers in 2014 <1%).

Annualized costs and benefits to all entities affected by the rule, whether

domestic or foreign, are presented in the following accounting statement.

ACCOUNTING STATEMENT: CLASSIFICATION OF EXPENDITURES FOR U.S. ENTITIES, 2012–2017  
[2012 \$]

	3% Discount rate	7% Discount rate
U.S. Costs:		
Annualized monetized costs .....	\$23.5 million .....	\$21.0 million.
Annualized quantified, but non-monetized costs.	None .....	None.
Qualitative (non-quantified) costs .....	None .....	None.
U.S. Benefits:		
Annualized monetized benefits .....	\$104.1 million .....	\$101.1 million.
Annualized quantified, but non-monetized benefits.	None .....	None.
Qualitative (non-quantified) benefits .....	Reduced primary inspection processing times	Reduced primary inspection processing times.

We estimate annualized costs to all entities affected by this rule to range from \$21.0 million to \$23.5 million. Monetized benefits of this rule range from \$101.9 million to \$104.1 million to

all entities. Non-quantified benefits of this rule include the reduced processing time that could result because of the automation of the Form I–94.

Annualized costs and benefits to U.S. entities are presented in the following accounting statement, as required by OMB Circular A–4.

ACCOUNTING STATEMENT: CLASSIFICATION OF EXPENDITURES FOR U.S. ENTITIES, 2012–2017  
[2012 \$]

	3% Discount rate	7% Discount rate
U.S. Costs:		
Annualized monetized costs .....	\$0.454 million .....	\$0.466 million.
Annualized quantified, but non-monetized costs.	None .....	None.
Qualitative (non-quantified) costs .....	None .....	None.
U.S. Benefits:		
Annualized monetized benefits .....	\$13.5 million .....	\$13.3 million.
Annualized quantified, but non-monetized benefits.	None .....	None.
Qualitative (non-quantified) benefits .....	Reduced primary inspection processing times	Reduced primary inspection processing times.

We estimate annualized costs to U.S. entities as a result of this rule to range from \$0.454 million to \$0.466 million. These are CBP’s costs for automating the electronic Form I–94 and developing the Web site travelers use to access their electronic Form I–94. Monetized benefits of this rule of \$13.3 million to \$13.5 million to U.S. entities (CBP and carriers) represent reduced Form I–94 printing and storage costs, reduced data entry contract costs, and reduced time costs for CBP officers. Non-quantified benefits of this rule include the reduced processing time that could result because of the automation of the Form I–94.

6. Regulatory Alternatives

In the analysis for the interim final rule, we considered two alternatives to the rule: (1) Eliminating the paper Form I–94 in the air and sea environments entirely and (2) providing the paper Form I–94 to all travelers who are not B–1/B–2 travelers. As a result of public comments on the interim final rule, we add a third alternative to our analysis: (3) Providing kiosks at major ports of entry where travelers have the option to

print their electronic Form I–94 prior to leaving the airport.

Under alternative one, if CBP were to eliminate the paper Form I–94 entirely in the air and sea environments, there are certain classes of vulnerable aliens who would be harmed. Under the rule, asylees and certain parolees are provided a paper Form I–94. These aliens have an immediate need for the Form I–94 and cannot wait to access their electronic Form I–94 from the Web site. These aliens represent a very small portion of overall international travel and providing them with a paper Form I–94 and entering the information into CBP data systems is not a significant cost to CBP. In addition, under this rule, CBP has continued to make the paper Form I–94 available to those travelers who request it at secondary inspection stations and at DIS. CBP provides this flexibility as a way to minimize the effect on those who face obstacles to accessing their electronic Form I–94.

CBP does not have statistics on the number of travelers who request a paper Form I–94. Anecdotal evidence suggests that few, if any, travelers go to a secondary inspection station or a DIS for

the purpose of obtaining a paper Form I–94. This may be because the travelers who need a paper Form I–94 do not know they need it when at the airport or because they find it more efficient to access the I–94 Web site and print the form than to go to secondary inspection or a DIS. Requesting a paper Form I–94 at one of these locations can take longer than the 4 minutes we estimate it takes to access the I–94 Web site and the 60 minutes in travel time we estimate that those with obstacles to internet access spend to obtain their Form I–94. As few aliens request a paper Form I–94 at secondary inspection stations or DIS, the cost to CBP for printing and data entry for these forms is minimal. Eliminating the paper Form I–94 option for asylees, certain parolees, and those travelers who request one would not result in a significant cost savings to CBP and would burden travelers who have an immediate need for an electronic Form I–94 or who face obstacles to accessing their electronic Form I–94.

Under alternative two, all non-B–1/B–2 travelers required to complete a Form I–94 would receive and complete the

paper Form I-94 during their inspection when they arrive in the United States. The electronic Form I-94 would still be automatically created during inspection, but the CBP officer would need to verify that the information appearing on the form matches the information in CBP's data systems. In addition, CBP would need to write the Form I-94 number on each paper Form I-94 so that their paper form matches the electronic record. As noted earlier, over four million, or 23.7 percent, aliens were non-B-1/B-2 travelers in 2012. Filling out and processing this many paper Forms I-94 at airports and seaports would increase processing times considerably and it would only provide at best small savings to the individual traveler. As noted in the "Net Benefits" section, the net cost of this rule to the 75 percent of temporary workers and those in the "Other/Unknown" category of aliens who need a printed Form I-94 is only \$18.20 per traveler. Conversely, this rule provides net benefits to travelers who do not need a printed Form I-94 and those arriving as students or diplomats.

CBP received several public comments related to the obstacles travelers face in accessing a computer to print their electronic Form I-94. Commenters said that many travelers need their Form I-94 very soon after arrival, sometimes within hours of arrival, and they may have difficulty learning that public libraries offer internet access, where public libraries are, and how to travel to a public library. An employer submitted a comment stating that company privacy standards prevent it from allowing new hires to access the internet in order to access the I-94 Web site. Separately, commenters pointed out problems with the accuracy of the Form I-94 information that prevent them from logging into the Web site. Others noted that there is no way to check their Form I-94 for accuracy at time of entry into the United States. One commenter suggested a solution to these problems: That CBP provide kiosks at the airports where foreign nationals can inspect and print their electronic Form I-94. CBP

considered this suggestion and made it an additional alternative to the rule.

Under alternative three, we consider the costs and benefits of placing kiosks at the busiest U.S. airports and seaports to allow travelers to inspect and print their electronic Form I-94 before leaving the port of entry. For the purposes of this alternative analysis, we examine the impact of placing dedicated kiosks at the busiest 20 airports and the busiest 20 seaports. These locations account for 92 percent of international air travelers and 95 percent of international sea travelers.<sup>35</sup>

CBP uses kiosks at many major airports for the Global Entry program. These kiosks are dedicated for use by members of that program, but similar kiosks could be purchased to allow travelers to access the I-94 Web site and print their Form I-94. According to CBP's Office of Field Operations, kiosks would cost \$20,000 each and have an annual operations and maintenance cost of \$8,732. Placing a kiosk at each of the busiest 20 airports and the busiest 20 seaports would cost \$800,000 the first year and \$349,280 in each subsequent years.

The benefit of placing kiosks at the busiest airports and seaports depends on the number of people who would use the kiosks if they were available. CBP has no data on the extent to which travelers would choose to use the kiosks if they were available to them. As stated previously, few travelers request paper Forms I-94 upon their arrival in the United States, but that might be because doing so means going to the secondary inspection station, which can take a considerable amount of time. We also do not know how many people find errors on their electronic Forms I-94 that they could correct immediately if they were already at an airport or seaport rather than visiting a Deferred Inspection Site at a later time, though data suggests this could be a large number. In 2013, according to an analysis of data provided by CBP's Office of Field Operations, about 14 percent of unique visitors to the I-94 Web site were not able to locate their electronic Form I-94. This may have

been because of erroneous data on their Form I-94, but it could also be because they did not actually have an Form I-94 on the Web site (for example, if they are a U.S. citizen or if they already departed the country prior to accessing the Web site).

Accessing the Web site via a kiosk would take 4 minutes of a traveler's time, the same amount of time as via a personal computer. Therefore, we do not believe that those who do not currently access their electronic Forms I-94 (as stated earlier, this includes the 99 percent of B-1/B-2 travelers and 25 percent of non-B-1/B-2 travelers) would now access them via the kiosks. Similarly, those with easy computer access would experience no time savings by accessing their Form I-94 via the kiosk instead of via the Web site, so we do not include their benefits in the analysis. The travelers who would benefit from the availability of kiosks to access their electronic Form I-94 are those who would otherwise need to travel to access the internet. These travelers would no longer incur the opportunity cost of traveling 60 minutes or the mileage cost of driving 20 miles roundtrip. In our analysis above, we have estimated that 33 percent of travelers in the "Temporary Workers" and "Other/Unknown" categories of travelers would need to travel to access the internet. In 2014 (the first full year the interim final rule is in effect) this represents approximately 819,000 travelers. Since we do not know how many of these travelers would choose to use the kiosks, we present the costs and benefits (using the primary estimates for travel and mileage costs) that would accrue to these travelers under a wide range of assumptions of their kiosk use. The benefits reflect the total travel costs, including travel time and mileage, derived earlier in the analysis (See Exhibit 5). We present the reduction in travel costs (which is a benefit) that would result if different percentages of travelers use a kiosk rather than travel to a location where they can access the internet. The results of our analysis are presented in Exhibit 16.

EXHIBIT 16—COMPARISON OF KIOSK COSTS AND POTENTIAL BENEFITS  
[Undiscounted 2012\$] \*

	Kiosk use rate* (%)	2013	2014	2015	2016	2017
Benefits .....	100	9,283,113	17,107,912	17,951,467	18,719,357	19,747,575
	75	6,962,334	12,830,934	13,463,600	14,039,517	14,810,681
	50	4,641,556	8,553,956	8,975,733	9,359,678	9,873,788

<sup>35</sup> CBP's Operations Management Reporting database. Accessed June 30, 2014.

## EXHIBIT 16—COMPARISON OF KIOSK COSTS AND POTENTIAL BENEFITS—Continued

[Undiscounted 2012\$]\*

	Kiosk use rate * (%)	2013	2014	2015	2016	2017
	25	2,320,778	4,276,978	4,487,867	4,679,839	4,936,894
	10	928,311	1,710,791	1,795,147	1,871,936	1,974,758
	5	464,156	855,396	897,573	935,968	987,379
	1	92,831	171,079	179,515	187,194	197,476
CBP Costs .....	.....	.....	800,000	329,280	329,280	329,280

\* Note that Kiosk Use Rate represents the percentage of those who would otherwise need to travel to access a computer, not total Form I-94 travelers. Only approximately 4 percent of total Form I-94 travelers need to travel to access the Web site (12 percent of travelers in the "Temporary Worker" or "Other/Unknown" categories times 33 percent of those categories who would need to travel to access the internet = 4 percent).

As shown in Exhibit 15, kiosks have a large potential for benefits if they are used by a substantial number of travelers. If 100 percent of travelers who would otherwise need to travel to access a computer used the kiosks instead, benefits would outpace the costs of the kiosks by a margin of \$17.2 million to \$0.8 million in 2014 and by more in later years. Even if only 5 percent of travelers who would otherwise need to travel to access a computer use the kiosks, benefits would exceed costs. However, based on CBP's experience with travelers requesting paper Forms I-94 at the ports of entry, CBP does not believe enough travelers would use the kiosks to merit the expense. Further, due to budget constraints, CBP does not have funds to acquire these kiosks at this time.

#### The Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare a regulatory flexibility analysis that describes the effect of a proposed rule on small entities when the agency is required to publish a general notice of proposed rulemaking. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Since a notice of proposed rulemaking was not necessary, a regulatory flexibility analysis was not required. Nonetheless, DHS has considered the impact of this rule on small entities.

This rule primarily regulates individuals and individuals are not considered small entities. In addition, the individual travelers may obtain a paper Form I-94 upon request, which would eliminate the impacts of this rule

for those travelers. Employers who have internet access may choose to allow their employees to use their internet connection to access the employee's electronic Form I-94, but they are not required to do so and are therefore not directly regulated by this rule. To the extent an employer chooses to assist an employee with accessing the internet and printing a Form I-94, this impact would not rise to being an economically significant impact under the Regulatory Flexibility Act.

This rule also regulates air and sea carriers by eliminating the need for them to provide the paper Form I-94 to their passengers. This rule would impact all small carriers that transport passengers to the United States. We therefore conclude that this rule has an impact on a substantial number of small entities.

As stated in the economic impact analysis above, we estimate that carriers spend \$1.3 million a year printing and storing forms for their passengers, based on 2011 passenger volumes. In 2011, 16,586,753 Forms I-94 provided by carriers were filed at airports and seaports. Dividing these figures, we estimate that carriers spent 8 cents per form on printing and storage costs.

Under this rule, carriers would no longer need to print and store the Forms I-94, thus eliminating these costs. According to a 2013 study by the Department of Commerce's Office of Travel and Tourism Industries,<sup>36</sup> the average airline ticket price for an international traveler traveling to the United States is \$1,588. The cost to the carrier of printing a Form I-94 is less than one hundredth of one percent of the revenue a carrier receives from the

<sup>36</sup> Department of Commerce, National Travel and Tourism Office. "Profile of Overseas Travelers to the United States: 2013 Inbound." Available at [http://travel.trade.gov/outreachpages/download\\_data\\_table/2013\\_Overseas\\_Visitor\\_Profile.pdf](http://travel.trade.gov/outreachpages/download_data_table/2013_Overseas_Visitor_Profile.pdf). Accessed July 10, 2014.

average passenger. We therefore do not believe that this rule has a significant economic impact on small entities. We also note that any impact to small carriers would be purely beneficial.

#### Privacy

CBP will ensure that all Privacy Act requirements and policies are adhered to in the implementation of this rule, and will be updating the Privacy Impact Assessment (PIA) for the I-94 Web site. CBP will outline in the updated PIA how CBP will ensure compliance with Privacy Act protections. In the updated PIA, CBP will explain the privacy risks and mitigations CBP has implemented during this phase of the Form I-94 automation process. DHS/CBP will post the updated PIA online at: <http://www.dhs.gov/privacy-documents-us-customs-and-border-protection>. The PIA that covers the earlier phase of Form I-94 automation, and describes how CBP complies with the Privacy Act, is available at: <https://www.dhs.gov/sites/default/files/publications/privacy/PIAs/pia-cbp-16-I-94-automation-20130227.pdf>.

#### Paperwork Reduction Act

The collection of information regarding the CBP Form I-94 (Arrival/Departure Record) was previously reviewed and approved by OMB in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under OMB Control Number 1651-0111. This OMB Control Number also includes the Electronic System for Travel Authorization (ESTA), ESTA fee, and Form I-94W, all of which are unaffected by this rule. In addition, information for the electronic Form I-94 is comprised of information already collected for APIS under approval 1651-0088. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of

information displays a valid control number assigned by OMB.

The burden hours associated with the collections of information contained in this Final Rule were previously reviewed and approved by OMB. The automation of the paper Form I-94 for commercial aircraft and vessel passengers in accordance with this Final Rule results in a reduction of 1,278,456 annual burden hours under OMB control number 1651-0111.

Also in accordance with this Final Rule, the electronic Form I-94 is available to aliens on a secure Web site.

Passengers may log into the Web site using 7 pieces of basic identifying information that is either known to the traveler (their first name, last name and date of birth) or readily available on their passport (passport number, country of issuance, date of entry, and class of admission). The estimated annual burden associated with this Web site, is 254,680 hours under OMB control number 1651-0111.

The automation of the paper Form I-94 for commercial aircraft and vessel passengers in accordance with this Final Rule results in an estimated reduction of

10,918 Forms I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, filed, and an estimated reduction of 4,541.89 burden hours under OMB control number 1615-0079.

Exhibit 16 summarizes the difference in the burden for the previous process and the process under this rule. As OMB Control Number 1651-0111 includes ESTA and Form I-94W, we include those burden hours for informational purposes. We note that these burden hours are unaffected by this rule.

EXHIBIT 16—PRA BURDEN EFFECTS OF THE RULE

	Collection	Respondents	Burden Hours
Pre-IFR .....	I-94 .....	14,000,000	1,862,000
	Website .....	0	0
	I-102 .....	17,700	7,363
	ESTA .....	19,140,000	4,785,000
Final Rule .....	I-94W .....	100,000	333,147
	I-94 .....	4,387,550	583,544
	Website .....	3,858,782	254,680
	I-102 .....	6,782	2,821
Difference .....	ESTA .....	19,140,000	4,785,000
	I-94W .....	100,000	13,333
	I-94 .....	-9,612,450	-1,278,456
	Website .....	3,858,782	254,680
	I-102 .....	-10,918	-4,542
	ESTA .....	0	0
	I-94W .....	0	0

**Amendments to the Regulations**

For the reasons set forth above, the interim final rule amending 8 CFR parts 1, 210, 212, 214, 215, 231, 235, 245, 245a, 247, 253, 264, 274a, and 286, published at 78 FR 18457 on March 27, 2013, is adopted as a final rule without change.

**Jeh Charles Johnson,**  
Secretary.

[FR Doc. 2016-30459 Filed 12-16-16; 8:45 am]  
BILLING CODE 9111-14-P

**DEPARTMENT OF AGRICULTURE**

**Food Safety and Inspection Service**

**9 CFR Parts 317 and 381**

[Docket No. FSIS-2016-0048]

RIN 0583-AD05

**Uniform Compliance Date for Food Labeling Regulations**

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is establishing January 1, 2020, as the uniform

compliance date for new meat and poultry product labeling regulations that are issued between January 1, 2017, and December 31, 2018. FSIS periodically announces uniform compliance dates for new meat and poultry product labeling regulations to minimize the economic impact of label changes.

**DATES:** This rule is effective December 19, 2016. Comments on this final rule must be received on or before January 18, 2017.

**ADDRESSES:** FSIS invites interested persons to submit relevant comments on this final rule. Comments may be submitted by the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to <http://www.regulations.gov/>. Follow the online instructions at that site for submitting comments.

- *Mail, including CD-ROMs:* Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, OPPD, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8-163A, Washington, DC 20250-3700.

- *Hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, OPPD,

Patriots Plaza 3, 355 E Street SW., Room 8-163A, Washington, DC 20250-3700.

*Instructions:* All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2016-0048. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov/>.

*Docket:* For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8-164, Washington, DC 20250-3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Division, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Telephone: 301-504-0879.

**SUPPLEMENTARY INFORMATION:**

**Background**

FSIS periodically issues regulations that require changes in the labeling of meat and poultry food products. Many meat and poultry establishments also produce non-meat and non-poultry food