

§ 1.4

who have a pending application for adjustment of status;

(5) Applicants for asylum under section 208(a) of the Act and applicants for withholding of removal under section 241(b)(3) of the Act or under the Convention Against Torture who have been granted employment authorization, and such applicants under the age of 14 who have had an application pending for at least 180 days.

(b) *Non-issuance of a Notice to Appear and non-enforcement of deportation, exclusion, or removal orders.* An alien may not be deemed to be lawfully present solely on the basis of DHS's decision not to, or failure to:

- (1) Issue a Notice to Appear; or
- (2) Enforce an outstanding order of deportation, exclusion or removal.

§ 1.4 Definition of Form I-94

The term *Form I-94*, as used in this chapter I, includes the collection of arrival/departure and admission or parole information by DHS, whether in paper or electronic format, which is made available to the person about whom the information has been collected, as may be prescribed by DHS. The following terms, when used in the context of the *Form I-94*, are clarified as to their meaning to accommodate the collection of such information in an electronic format.

(a) The terms “annotate,” “note,” “indicate on,” “stamp,” and “endorse,” unless used in part 231 of this chapter, include, but are not limited, to DHS amending, including or completing information in its electronic record of admission, or arrival/departure. For purposes of part 231, the term “endorse” includes but is not limited to the submission of electronic departure data to CBP.

(b) The terms “completed,” “completely executed” and “completed and signed” include, but are not limited to, DHS completing its collection of information into its electronic record of admission, or arrival/departure.

(c) The terms “issuance” and “given” include, but are not limited to, the creation of an electronic record of admission, or arrival/departure by DHS following an inspection performed by an immigration officer.

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(d) The term “original 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.

(e) The terms “present,” “presentation,” or “submission” of a Form I-94, unless they are used in §231.1 or §231.2 of this chapter, include, but are not limited to, providing a printout of information from DHS systems containing an electronic record of admission or arrival/departure. For purposes of §231.1 of this chapter, the terms “present” or “submission” of the Form I-94 includes ensuring that each passenger presents him/herself to a CBP Officer for inspection at a U.S. port-of-entry. For the purposes of §231.2 of this chapter, the terms “present,” “submit,” or “submission” of the Form I-94 includes ensuring that each passenger is available for inspection by a CBP Officer upon request.

(f) The term “possession” with respect to a Form I-94 includes, but is not limited to, obtaining a copy or printout of the record of an electronic evidence of admission or arrival/departure from the appropriate CBP systems.

(g) The terms “surrendering,” “turning in a Form I-94,” and “departure I-94” includes, but is not limited to, complying with any departure controls under 8 CFR part 215 that may be prescribed by CBP in addition to the submission of electronic departure data to CBP by a carrier.

[78 FR 18472, Mar. 27, 2013]

PART 2—AUTHORITY OF THE SECRETARY OF HOMELAND SECURITY

AUTHORITY: 8 U.S.C. 1103; 5 U.S.C. 301; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

§ 2.1 Authority of the Secretary of Homeland Security.

All authorities and functions of the Department of Homeland Security to administer and enforce the immigration laws are vested in the Secretary of Homeland Security. The Secretary of