

Appendix to Form I-9, Supporting Statement (Collection Number 1615-0047) – Responses to comments received in response to the 30-day information collection notice published on August 22, 2012.

On August 22, 2012, USCIS published a 30-day information collection notice in the Federal Register at 77 FR 50710, inviting the public to comment for a 30-day period. On September 10, 2012 and September 14, 2012, USCIS issued two correction notices at 77 FR 55486 and 77 FR 56856, respectively. The comment period on the 30-day notice was extended to October 15, 2012. USCIS received over 80 comments, from 25 commenters, on the 30-day notice. Commenters included stakeholders such as: The Chamber of Commerce, staffing agencies, universities, attorneys and attorney organizations, large companies, farms and farm bureaus, private industry associations, and municipalities as well as the general public. The following is an analysis of the comments received and DHS' responses to these comments:

Introduction

1. **One (1)** commenter requested that DHS define the acronyms DHS, USCIS and ICE before using it in the form's instructions.

Response: DHS agrees with this comment and has decided to make this change.

General Instructions Section 1. Employee Information and Attestation

2. **One (1)** commenter requested DHS remove from the instructions that a maiden name can be completed under other names.

Response: In order to address the concerns raised by commenters, DHS has determined that maiden name be included to help clarify this field. DHS will not make any changes to the form as a result of this comment.

3. **One (1)** commenter asked DHS to clarify what to do when the employee has more than one middle name.

Response: Both middle names should be included on the form. Due to the uniqueness of this situation, DHS believes that this additional guidance would be better placed in the two additional reference tools available to the public: USCIS' I-9 Central web page and the *Handbook for Employers (M-274)* publication. DHS will update these reference materials accordingly.

4. **One (1)** commenter recommended that DHS change 'address' to 'physical address'.

Response: DHS has clarified in the instructions what address must be used and will not make this change recommended by the commenter.

5. **Two (2)** commenters requested DHS change the language stating the Social Security Number field is optional unless the employer participates in E-Verify.

Response: DHS will not adopt this recommendation; it has determined that the word “optional” confuses employees whose employers use E-Verify and must collect the employee’s Social Security number. The form instructions, as well as the *Handbook for Employers (M-274)*, clearly state that the Social Security number is voluntary.

6. **Four (4)** commenters requested that DHS include language on the form itself state that the e-mail address and telephone number are optional.

Response: DHS expects that all applicable fields on Form I-9 are completed by the relevant parties and believes that adding in notations such as “optional” may be misleading. DHS includes explanatory language in the instructions for particular fields such as the e-mail address and telephone number fields which should allay the commenters’ concerns.

7. **One (1)** commenter requested that DHS rewrite the instructions for the e-mail and telephone number fields as the instructions are misleading.

Response: DHS has revised the instructions concerning the new e-mail and telephone number fields in response to this commenter’s concerns.

8. **One (1)** commenter asked that DHS change the description of ‘Alien Authorized to Work’ to include non-citizen national.

Response: DHS does not agree with the commenter’s suggestion and will not make this change. A non-citizen national is not an alien but is instead someone who, though not a citizen of the United States, owes permanent allegiance to the United States.

9. **One (1)** commenter requested that DHS clarify whether an employee in Section 1 of Form I-9 *may* or *must* write N/A in the Foreign Passport Number and Country of Issuance fields.

Response: DHS agrees with the commenter and will make clarifying changes.

General Instructions: Section 2. Employer Review and Verification

10. **One (1)** commenter requested that DHS change ‘document’ to ‘documentation’ in Section 2 of Form I-9.

Response: DHS will not make this change as the word, “document,” is consistent with the statute and regulations. Use of a different word in its place may cause confusion.

11. **One (1)** commenter requested that DHS add the term ‘company’ to reduce confusion.

Response: Though DHS is aware that the term company is used as well, DHS has determined to use ‘employer’s name’ to remain consistent and avoid confusion.

12. **One (1)** commenter requested DHS include instructions in paragraph 3 of Section 2 that the documents must be genuine and relate to the person presenting them.

Response: DHS already instructs the employer to examine documentation to determine if the document reasonably appears genuine and to relate to the individual presenting it, in the instructions for Section 2, item #1. Sources such as I-9 Central and the *Handbook for Employers*

(M-274) discuss in greater detail when documentation should not be accepted and DHS believes this additional guidance is better served by the two additional reference materials available to the public. DHS will not be making changes to the form I-9 as a result of this comment.

13. **One (1)** commenter requested that DHS capitalize and bold the word 'not' in Section 2, "If an employee presents a List A document, he or she should not present a List B and List C document and vice versa".

Response: DHS agrees that this information is important and will adopt this suggestion.

14. **One (1)** commenter requested DHS bold and capital the term 'and' between items *a* and *b* in number 2 of Section 2 instructions.

Response: DHS will revise this language in the instructions to make it clearer.

15. **Two (2)** commenters requested change to receipts. **One (1)** commenter requested that DHS include information that receipts for a new photo document for E-Verify participants are acceptable. **One (1)** commenter suggested changing the wording to outline receipts limited circumstances.

Response: Receipts are only acceptable for lost, stolen or damaged documents. If the employee does not have a photo ID, they must provide one within three days of hire. DHS cannot add this information, because receipts for the application for a new document are not acceptable without a regulation change. DHS will not revise the instructions on which types of receipts are acceptable. On page 4 of the instructions, DHS lists all types of receipts that are acceptable. DHS does not agree it is necessary to add the words "in limited circumstances." DHS explains further in this section the three types of receipts acceptable, which include those receipts to replace a document that was lost, stolen, or damaged.

16. **One (1)** commenter requested that DHS change 'first day of employment' to the 'first day of work for pay'.

Response: DHS revised the language because of comments we received during the 60-day comment period. Use of the words "first day of work for pay" would negatively impact staffing agencies and at the request of those agencies, DHS revised the language. DHS will not make changes to the form based on this commenter's suggestion.

17. **One (1)** commenter requested that DHS capitalize and bold the word 'or' in the sentence "If photocopies are made, they should be made for **ALL** new hires or reverification".

Response: DHS wants to limit the amount of information bolded. In this case, DHS does not see the benefit to bolding "or" in this sentence and has decided not to adopt this suggestion.

18. **One (1)** commenter requested DHS include information about electronic signatures and storage of Form I-9 in the instructions on *Section 2. Employer Review and Verification*.

Response: DHS does not believe additional information about electronic signatures and storage of Form I-9 should be added in this location. DHS believes this information is more appropriate in its current location on the form.

General Instructions: Section 3. Reverification and Rehires

19. **One (1)** commenter requested that DHS add the phrase ‘is expiring’ in Section 3 of the instructions.

Response: DHS believes the insertion of this phrase will lead employers to unknowingly require employees to provide updated employment authorization too far in advance of when documentation is required. As a result, DHS will not make this change to the instructions.

20. **One (1)** commenter requested that DHS include instructions on when block C in Section 3 is used.

Response: DHS has added instructions on when block 3 in Section 3 is to be used.

21. **One (1)** commenter requested that DHS change the phrases “you may write N/A” to “you must write N/A”.

Response: DHS agrees with the commenter and will make these changes for the fields that require completion.

22. **One (1)** commenter requested that DHS label the employer’s/representative signature box in Section 3 to Block D.

Response: DHS will not label the employer’s/representative signature box as Block D is an attestation and applies to all of the preceding Blocks, Blocks A-C. DHS has revised the instructions to clarify this point.

Form I-9 General

23. **One (1)** commenter requested DHS replace “alien” with a less pejorative term.

Response: The use of the term “alien” is statutory. Therefore, DHS is unable to replace this term.

24. **One (1)** commenter asked that DHS mark all mandatory fields with an asterisk.

Response: DHS has considered the comment but has determined that adding asterisks to fields may be misleading. All fields on the form must be completed if applicable. The law provides that if an error is considered “technical or procedural,” it may be corrected after receiving notice of the error. However, it would be misleading to characterize these fields as non-mandatory. DHS is developing an enhanced Form I-9 that will aid employees, preparers, and employers in the proper completion of the fields on the form.

25. **One (1)** commenter asked for DHS’s rationale for increasing the length of the instructions and form.

Response: DHS lengthened the form in response to frequent public requests to clarify parts of the form and to provide additional space for completing certain sections of the form.

26. **Three (3)** commenters stated the estimated burden to complete the form is too short.

Response: DHS has conducted additional testing to determine how long it takes to complete Form I-9. We determined an average completion time of 20 minutes for employers: 8 minutes for reading the instructions to the form and consulting the manual as needed; 10 minutes for completing Section 2, including reviewing documentation presented

by the employee; and 2 minutes for completing Section 3 when necessary. We determined an average completion time of 10 minutes for employees: 3 minutes for reading form instructions and 5 minutes for gathering the required supporting documentation.

27. **Four (4)** commenters stated that Form I-9 was too long.

Response: DHS redesigned the Form I-9 with the goals of making it easier to use and help reduce user errors on the form. While DHS appreciates the benefits of a one page form, we found that more space is necessary to make the data fields clearer, and, therefore, the form is now two pages. Four additional fields were added to the form, but two are optional and two only apply to a limited group of employees who received Form I-94 when travelling to the United States. The added information in the instructions includes requirements that all employers have to follow to comply with the regulations and should already be implementing. DHS will provide information on the USCIS I-9 Central website concerning the four new fields and how to complete each field when the revised I-9 is approved by OMB.

28. **One (1)** commenter stated that the instructions of Form I-9 were too long.

Response: DHS understands that the instructions may seem lengthy, but we have made certain changes to Form I-9 that need to be explained in the instructions. In addition, we have received feedback from the public requesting more detailed information on the actual Form I-9 instructions, rather than only in guidance materials, including the *Handbook for Employers (M-274)* or on the I-9 Central website. With the additional information added to Form I-9 instructions, DHS is striving to strike a balance between providing the necessary information to reduce errors on Form I-9 and keeping the form at an acceptable length.

Form I-9 Section 1. Employee Information and Attestation

29. **One (1)** commenter requested that DHS clarify which names “other names” refers to.

Response: DHS has included which names that the “other names” data field refers to in the instructions. Employees who have used a different legal name should complete the other names used field. A common example is a married woman’s maiden name.

30. **One (1)** commenter suggested DHS provide more space in the Address fields in Section 1 of Form I-9.

Response: DHS agrees that more space is necessary to enter street addresses in the Address fields in both Sections 1 and 2 and has revised these fields accordingly.

31. **One (1)** commenter requested DHS provide more space to the Social Security number to allow for corrections.

Response: DHS cannot add more space to this field without compromising the overall formatting of the page. Therefore, DHS will not make this change.

32. **One (1)** commenter requested that DHS require the Preparer/Translator and Employer to provide their telephone number.

Response: DHS does not consider that the Preparer/Translator's and Employer's phone number will add employment verification value to the form. DHS has determined that it will not adopt this comment.

33. **One (1)** commenter stated that having the Foreign Passport Country of Issuance and the I-94 number in Section 1 is a duplicate as this information will be provided in Section 2, List A.

Response: DHS does not agree with the commenter. An alien authorized to work is not required to present a foreign passport and I-94 for Section 2 of the form. Due to DHS's I-94 automation initiative, the additional information collection of foreign passport information is necessary to ensure confirmation of the information provided by the individual in Section 1.

34. **Two (2)** commenters asked that the information collection and related text underneath the attestation in Section 1 be revised to more clearly indicate that only one piece of information is required- employees need to only provide the Alien Registration Number/USCIS-Number **OR** Form I-94 Admission Number.

Response: DHS agrees with the commenter and will edit the form and explain that an employee is required to provide either his or her Alien Registration Number/USCIS-Number or Form I-94 Admission Number.

35. **Two (2)** commenters suggested that the Employee signature and date area be given more prominence and increased space so employees do not miss it.

Response: DHS agrees with the commenters concerns and has increased the size of the signature box and made it more prominent on the form instead of shading the signature area. The form now has an obvious signature block and separate date block.

36. **One (1)** commenter requested that DHS include instructions for the employee's signature that they must present documents that are genuine and relate to them.

Response: Under current requirements, that documents are genuine and relate to the person presenting them is the standard that the employer must apply when reviewing documents rather than something the employee must attest to. While DHS will not make the suggested change to the form at this time, DHS will consider it for a future revision.

Form I-9 Section 2. Employer Review and Verification

37. **One (1)** commenter requested that DHS include a field for the name of the sponsoring organization's name.

Response: The verification process is applicable to employers and their employees. The sponsoring organization is not a party to the process. Moreover, space restrictions on the form preclude DHS from being able to add a field for the sponsoring organization's name.

38. **One (1)** commenter requested that DHS create a box for EADs with automatic TPS extensions.

Response: DHS will not make this change as it will overly complicate the form for such a discreet situation.

39. **One (1)** commenter requested DHS to add the phrase “Only complete if enter List A combination documents that consists of more than one individual document” above the 2nd and 3rd boxes under List A.

Response: DHS will not make this change. DHS feels that this instruction is overly restrictive and may cause unnecessary confusion. Sometimes an employer may need to use the extra space even if the List A document is not a combination document situation (e.g., receipts).

40. **One (1)** commenter asked that DHS specify whether the business’s or authorized representative’s address or hiring site be recorded.

Response: The instructions and form specify that it’s the employer’s (i.e. business’) address that must be recorded on the form. DHS will not make additional changes to the instructions or form, but will consider including clarifications in guidance materials.

41. **One (1)** commenter stated that three fields for entering documents in Section 2 of Form I-9 was too limited.

Response: DHS will not reduce the number of fields for entering documents in List A of Section 2, because the third space accounts for certain nonimmigrant categories.

Form I-9 Section 3. Reverification and Rehires

42. **One (1)** commenter recommended separating Section 3 into two sections – a reverification section and a rehire section.

Response: DHS will not separate Section 3 into two sections, as this will make the form longer and numerous commenters have asked that the form be shortened.

43. **Two (2)** commenters requested that Section 3 be expanded to include more space to record information when more than one document is presented.

Response: Due to the limited circumstances when an employee would provide multiple documentation for Section 3, DHS will not expand the space in order to save space.

44. **Two (2)** commenters requested that DHS add a field for issuing authority in Section 3.

Response: DHS will not add this field because there are a limited number of agencies that issue a document which qualify for reverification and it would be obvious from the document title which agency issued the document.

45. **One (1)** commenter requested DHS add the ‘Name Changes’ to the title of Section 3 to ensure employers are aware of the section’s use.

Response: DHS believes that to add “Name Changes” to the title of Section 3 would mislead the public into thinking that name changes must be recorded whenever they occur. Instead, name changes are only necessary to record during the course of reverification or a rehire. Therefore, DHS will not make this change to the title. Information about names changes can be found in the Handbook for Employers (M-274).

List of Acceptable Documents

46. **One (1)** commenter requested that DHS require all driver's licenses and state-issued ID cards contain name, date of birth, gender, height, eye color and address.

Response: DHS cannot adopt the commenter's suggestion. The law provides for the option of a photograph or other identifying information as provided by regulation. While the law provides DHS with the authority to prohibit or place conditions on the use of listed documents if the document does not reliably establish identity or is being used fraudulently to an unacceptable degree, DHS may only exercise this authority by regulation. The commenter's suggestion would require a regulatory change, and DHS cannot make regulatory changes through the form revision process.

47. **One (1)** commenter requested DHS identify which documents can be acceptable as a List C #8 document.

Response: DHS has provided examples of documents that may be considered acceptable as List C #8 documents on our website, I-9 Central. DHS will not provide a list in the instructions or on the form because this will lengthen the form and the list may change if DHS issues other types of evidence of employment authorization.

48. **One (1)** commenter requested that DHS include the chart from the I-9 Central webpage entitled "Who is issued This Document" to the list of acceptable documents.

Response: In order to preserve the length of the form, DHS believes that this additional guidance is better served by the public website and the *Handbook for Employers (M-274)*. DHS will not make this change to the form or form instructions.

Additional Information Requests

49. **Two (2)** commenters requested that DHS provide guidance on how an employer may legally allow an employee to work when the employee is unable to provide documentation due to government error.

Response: We cannot provide guidance on allowing an employee to work when unable to provide acceptable documentation. The law prohibits employers from hiring an individual without completing employment eligibility verification on Form I-9. The law does not provide for exceptions in case of government error in the issuance of documents.

50. **One (1)** commenter requested DHS provide guidance on acceptable receipts for individuals that have obtained permanent residence status.

Response: DHS has included guidance on temporary evidence of lawful permanent residence, including accepting receipts for this situation. The information can be found in the *Handbook for Employers (M-274)*.

51. **One (1)** commenter requested that Form I-9 include a waiver that employee's sign to allow their employer to provide their Form I-9 to third-parties in order to facilitate contract obligations.

Response: The suggested waiver would be between private parties and is not covered by DHS regulations. As such, DHS will not include it on the form.

52. **One (1)** commenter requested DHS include information about Self-Check on Form I-9.

Response: The Self-Check program is separate from Form I-9 and, therefore, DHS will not include additional information about Self-Check on Form I-9. Please refer to information regarding Self-Check on the USCIS website at www.uscis.gov.

53. **One (1)** commenter asked that DHS address the portability provisions of AC-21 and the work authorization of many alien employees extended under 8 CFR 274a.12(b)(20).

Response: Because AC-21 portability affects a small and discreet group of individuals, DHS has determined that it would cause too much confusion to include information on this topic in the instructions. DHS feels that a discussion on AC-21 is better placed in guidance materials. Currently, DHS has addressed these issues in the Handbook for Employers (M-274) and on the USCIS I-9 Central web page.

54. **Five (5)** commenters suggested that DHS include more instructions on how to correct Form I-9. **Three (3)** commenters asked that correction instructions be included on the form and **one (1)** commenter asked that additional instructions on correcting the form be included in the *Handbook for Employers (M-274)*.

Response: DHS has decided not to include information on the form or additional information in the *Handbook for Employers (M-274)*. DHS believes that the instructions should be limited to information regarding proper completion. DHS will consider providing more guidance to the public on how to correct Form I-9 on the USCIS website, I-9 Central and in a future revision of the *Handbook for Employers (M-274)*.

55. **One (1)** commenter asked that DHS include guidance on best practices regarding attached pages/documents for paper and electronic Form I-9 processes.

Response: DHS believes that this additional guidance is better served by the two additional reference materials available to the public I-9 Central and the *Handbook for Employers (M-274)*. DHS will update these reference materials accordingly.

56. **One (1)** commenter requested additional guidance on what documentation must be provided at the end of the receipt validity period.

Response: DHS believes that this additional guidance is better served by the two additional reference materials available to the public I-9 Central and the *Handbook for Employers (M-274)*. DHS will update these reference materials accordingly.

57. **One (1)** commenter asks that DHS provide additional guidance on review of documentation and updating of Form I-9 during reverification when status change has occurred.

Response: DHS believes that this additional guidance is better served by the two additional reference materials available to the public I-9 Central and the *Handbook for Employers (M-274)*. DHS will update these reference materials accordingly.

58. **One (1)** commenters suggested that DHS include more instructions on how to correct Form I-9.

Response: DHS has decided not to include information on the form. DHS believes that the instructions should be limited to information regarding proper completion. DHS will consider providing more guidance to the public on how to correct Form I-9 on the USCIS website, I-9 Central and in a future revision of the *Handbook for Employers (M-274)*.

Formatting

59. **One (1)** commenter asked that DHS provide set boxes for every field, one box for one letter or number provided.

Response: DHS is unable to accept the commenter's suggestion. Many fields require information that will vary in length. In order to accommodate these variations, it is not practical to provide set boxes for each field.

60. **Two (2)** commenters requested that DHS provide more space in Section 3.

Response: DHS has revised the form to provide additional space in Section 3.

Implementation

61. **Four (4)** commenters requested the DHS delay implementing a new Form I-9 until Customs and Border Protection (CBP) finalizes the new I-94 automation process in order to reduce employer burden.

Response: CBP is exploring automating Forms I-94, but the I-94 will continue to be issued. OMB approval of Form I-9 expired on 8/31/2012; DHS must seek renewal of OMB's approval of the form. DHS has determined that it would be administratively efficient to make additional improvements to the form at the same time we sought renewal of the form. Form I-9 is being revised accordingly and should not place any additional burden on the employer once CBP implements I-94 automation.

62. **Three (3)** commenters request that DHS not implement the new Form I-9 until January 2013.

Response: DHS will take into consideration the concerns raised by the commenters. DHS will help employers transition to the new form through reference and press materials, as well as outreach efforts.

63. **One (1)** commenter thought there needs to be a phase-in period for any new Form I-9, allowing 180 days (6 months) advance notice for transition.

Response: DHS will take into consideration the concerns raised by the commenter. DHS will help employers transition to the new form through reference and press materials, as well as outreach efforts.

64. **One (1)** commenter requested that DHS perform testing with the new Form I-9 to gauge that the changes are sufficiently clear before implementation.

Response: DHS conducted testing of the form. Additionally, the extensive public comment DHS received on the form has provided DHS with ample information regarding the proposed revisions. DHS has taken into consideration many of the issues raised by commenters and has

made changes to the form as necessary. In a future form revision, DHS may consider public testing of the form

65. **One (1)** commenter requested that DHS allow employers throughout the United States the ability to complete and retain the Spanish version of the form.

Response: To ensure the form is understood by the numerous government agencies whose work activities may involve the form, DHS has determined it is in the best interest for all parties involved that only the English version of the form be completed and retained. DHS appreciates this comment and will consider this recommendation in the future.

Miscellaneous Form I-9 Comments

66. **One (1)** commenter requested the addition of instructions and guidance on identifying illegal immigrants.

Response: DHS does not require employers to be document or immigration experts. DHS is concerned that including this type of guidance would confuse employers, increase their burden, and could increase discrimination. DHS has determined that it is not appropriate to include this information in the instructions.

67. **One (1)** commenter instructed DHS to require all employers to retain copies of all documentation provided for Form I-9.

Response: DHS will not make this change because requiring all employers to retain copies of all documentation provided for Form I-9 would significantly increase employer burden and cost that would outweigh any benefit.

68. **Seven (7)** commenters questioned whether DHS was aware of CBP's I-94 automation process, questioned whether the I-94 would remain on the form and the List of Acceptable Documents and whether DHS was properly planning in order to accommodate the new process.

Response: CBP has worked closely with other DHS components with respect to CBP's goal to automate Form I-94 at ports of entry. Both CBP and USCIS will continue to issue Forms I-94 even after CBP begins automating Forms I-94. Therefore, DHS does not plan to remove Form I-94 from the Lists of Acceptable Documents and will leave an area on the form for the employee to enter their I-94 information on Form I-9.

69. **(1)** commenter requested that DHS consider allowing employers to verify documentation via other means than physical inspection.

Response: DHS regulations require physical examination of the documentation presented by the employee. DHS cannot change this requirement through this form revision process.

70. **One (1)** commenter requested the DHS release a 'Smart-I-9' or I-9 wizard to assist employers with the task of completing Form I-9.

Response: DHS is working diligently on programs that will assist employers with completion of Form I-9. However, DHS cannot provide an exact timeline for when these programs will be available. Once these programs are developed, DHS will conduct public outreach. When the programs are finalized, DHS will provide the public with a launch date.

71. **One (1)** commenter had questions regarding DHS' response to his (or her) previous comment filed during the 60-day comment period about the telephone number and e-mail address fields. Specifically, the commenter asked what will make it 'necessary' to contact the employee.

Response: DHS may contact the employees if DHS learns there is a mismatch in the information provided and the information in DHS or Social Security Administration (SSA) records.

72. **One (1)** commenter wants DHS to notify employees that if they provide their telephone number and email address, this information will be stored for ten (10) years.

Response: The Form I-9 is retained by the employer, so this information will not be obtained by DHS unless it is provided in connection with an I-9 audit. If the employer is an E-Verify participant, the information will be provided to USCIS by the employer when creating a case in E-Verify.

E-Verify has an established records retention schedule with the National Archives and Records Administration (NARA) as required by law. The schedule number is N1-566-08-7. Records collected in E-Verify are retained for ten years. Additionally, records that are part of ongoing investigations are retained until the investigation is complete. Because the retention information is placed in required retention schedules, DHS will not include it in the information collection for Form I-9.

73. **One (1)** commenter asked if all information provided on Form I-9 must be provided to E-Verify.

Response: The E-Verify process is separate from Form I-9. The information required for an E-Verify case is based on information included on Form I-9 but may not necessarily include all fields on Form I-9. For additional information about what information is required to create a case in E-Verify, please refer to the E-Verify User Manual for Employers (M-775).

74. **One (1)** commenter asked that DHS include what are the acceptable values when entering the country of issuance.

Response: For the country of issuance of a foreign passport, there are no accepted values other than the name of the country. The employee should spell out the full name of the country. DHS does not believe a change to the form or instructions is necessary.

75. **One (1)** commenter questioned how the two pages of Form I-9 should be stored.

Response: It is up to the employer on how best to store the multi-page form. DHS does not require that Form I-9 be stapled or paper clipped. The only requirement is that the form be ready to present upon request in case of an I-9 inspection by federal officers.

76. **One (1)** commenter expressed concern with DHS's I-94 automation initiative.

Response: DHS is currently automating the I-94 process and will provide the public with information. The automated I-94 will not require further revisions to Form I-9.

77. **Four (4)** commenters requested that DHS not collect the employee's telephone number and e-mail address and questioned why DHS would need this information.

Response: DHS does not agree that the e-mail and phone number fields should be removed and is not adopting this suggestion. Having these two fields on Form I-9 will be helpful in various ways; for example, if an employer using E-Verify does not issue notice of a Tentative Nonconfirmation to an employee, then E-Verify would still be able to reach the employee so the case can be resolved properly.

78. **One (1)** commenter questioned DHS's intention to require the employer to update the date of employment to be consistent with the employer's internal systems.

Response: In case of an I-9 inspection, it is important that I-9-related information is accurate to avoid potential civil money penalties. DHS will consider providing additional guidance in USCIS I-9 Central web page and the *Handbook for Employers (M-274)*.

79. **One (1)** commenter asked that DHS clearly define the purpose for providing space for the 3-D barcode.

Response: DHS added a 3-D barcode as part of its modernization plan for all USCIS forms.

80. **One (1)** commenter requested DHS specify whether soft (electronic) or hard (paper) copies of documents are acceptable.

Response: Photocopying of documents provided to the employer is voluntary. This information is provided in the form instructions. If an employer wishes to photocopy documents, the manner the photocopying is accomplished is up to the employer, although consistent practices are important to avoid discrimination. DHS agrees that a more detailed discussion on photocopying documents may be helpful for employers and will add information to guidance materials, such as the USCIS I-9 Central web page.

E-Verify & Self-Check

81. **One (1)** commenter suggested that E-Verify be mandatory in the United States.

Response: While E-Verify comments are appreciated, they are not related to the comments on the proposed Form I-9 revisions and, therefore, are outside the scope of this action. You may raise your concerns by contacting E-Verify at 888.464.4128 or E-Verify@dhs.gov.

82. **Two (2)** commenters requested the instructions detail how to handle an E-Verify case if an employee does not yet have a Social Security Number.

Response: DHS has included guidance in Section 1 of the instructions stating that providing a Social Security number is voluntary unless the employer participates in E-Verify. DHS will not provide instructions for E-Verify in the Form I-9 instructions; the E-Verify MOU and guidance materials are the more appropriate place for this information.

Handbook for Employers (M-274)

83. **One (1)** commenter requested the DHS include guidance in the *Handbook for Employers (M-274)* about not being able to create a case in E-Verify without a Social Security Number.

Response: The E-Verify process is separate from Form I-9. In order to reduce confusion, DHS will not include this information in the M-274. Employers should review the E-Verify User Manual for Employers (M-775) for more information.

Non-Related

84. **One (1)** commenter asked that Immigration Customs and Enforcement (ICE) release information on what items an employer may be fined on.

Response: While DHS understands the commenters concerns, the request is unrelated to the proposed revisions to Form I-9 and instructions.