



CENTER FOR IMMIGRATION STUDIES

November 25, 2025

Larry Panetta, Director
Biometrics Program Office
Office of Field Operations
U.S. Customs and Border Protection

Re: Collection of Biometric Data from Aliens Upon Entry to and Departure From the United States, Docket No. USCBP-2025-0033; USCBP-2020-006

Dear Mr. Panetta,

The Center for Immigration Studies (CIS) respectfully submits the following public comment to the U.S. Department of Homeland Security (DHS) in response to the Department’s final rule, “Collection of Biometric Data from Aliens Upon Entry to and Departure From the United States,” DHS Docket No USCBP-2025-0033, as published in the Federal Register on October 27, 2025.

CIS is a national, nonprofit, public-interest organization comprised of concerned citizens who share a common belief that our nation's immigration laws must be enforced, and that policies must be reformed to better serve the national interest. CIS examines trends and effects, educates the public on the impacts of sustained high-volume immigration, and advocates for sensible solutions that enhance America’s environmental, societal, and economic interests today, and into the future.

I. Background

Numerous provisions of the Immigration and Nationality Act (INA) give DHS broad authority to regulate alien travel and to inspect aliens entering and leaving the United States, including the authority to require aliens to provide biometrics and other identifying information.¹ While the U.S. Customs and Border Protection has collected biometric data from aliens arriving in the United States, it has not implemented a comprehensive system to collect biometric data from aliens departing the country.

Prior to the effective date of this rule, CBP could only conduct biometric data collection in the form of pilot programs at certain air and sea ports of entry (POEs). Specifically, regulations at 8 C.F.R. § 215.8(a)(1) authorized DHS to collect biometric exit information from certain aliens on departure from the United States pursuant to pilot programs at air, land, or sea POEs and places a limit of 15 air or sea POEs at which such biometric exit pilots may be established. This

¹ See INA §§ 214, 215(a), 235(a), 262(a), 263(a), 264(c), 287(b).



CENTER FOR IMMIGRATION STUDIES

regulatory limitation hinders DHS's ability to expand and fully implement a comprehensive biometric exit solution, as mandated by Congress.

This rule authorizes DHS to collect facial biometrics from all aliens entering or exiting the United States, regardless of age, sex, race and nationality. To accomplish this, the rule amends 8 C.F.R. § 215.8 by removing the reference to pilot programs and the reference to 15 air or sea port limit. As a result, DHS can establish a general biometric exit policy for all aliens. Moreover, the rule requires facial comparison biometrics from all aliens on entry and exit.

The rule also amends 8 C.F.R. § 235.1(f)(1) to authorize DHS to photograph aliens to determine the alien's identity or for other lawful purposes and collect "other biometrics" to determine the alien's identity and admissibility and/or whether the alien has properly maintained immigration status while in the United States. The regulation clarifies that failure of an alien at the time of inspection to comply with the relevant data collection may result in a determination that the alien is inadmissible.

The rule makes no changes to the requirements for U.S. citizens and provides that U.S. citizens may voluntarily participate in the biometric verification process. DHS states that CBP will not retain photographs of U.S. citizens in agency databases collected as a part of its biometric verification program. The Department explains that photographs of U.S. citizens will be "discarded within 12 hours of verification of the individual's identity and citizenship."

II. The Rule Implements Clear Statutory Mandates Congress Has Repeatedly Enacted to Strengthen National Security and Immigration Enforcement.

CIS strongly supports implementation of this final rule because it implements clear statutory mandates Congress has repeatedly enacted to strengthen national security and immigration enforcement. A reliable biometric record of each noncitizen's entry and departure enables DHS to more accurately identify overstays, detect impostors, and prevent the use of fraudulent travel documents. Biometric data comparison ensures that the person presenting a passport or visa is the true holder of that document, an indispensable safeguard given the rise in sophisticated document fraud. Moreover, a unified system enhances data integrity across DHS components, enabling more accurate status tracking, targeted enforcement, and timely adjudication of immigration benefits.

It is essential that DHS fulfill explicit congressional mandates because the agency's legal authority derives entirely from statutes enacted by Congress, and failure to implement those directives undermines the integrity of the immigration system Congress designed. A standardized



CENTER FOR IMMIGRATION STUDIES

nationwide architecture avoids gaps, inconsistencies, or coverage disparities that could otherwise undermine enforcement or create vulnerabilities exploitable by bad actors.²

Congress has required a biometric entry-exit system for nearly three decades. Beginning with the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* (IIRIRA), Congress directed the Attorney General (now the Secretary of Homeland Security) to develop an automated system to record all alien arrivals and departures³. Originally, this requirement was for biographic information, but later legislation amended this statutory requirement to include biometric information.

Congress reinforced and expanded biometric entry-exit collection mandates through subsequent legislation, including: two appropriations acts that amended section 110 of IIRIRA to extend the deadline for implementing the entry-exit system;⁴ the *Immigration and Naturalization Service Data Management Improvement Act of 2000*,⁵ which amended section 110 of IIRIRA to describe the entry-exit system in greater detail and impose new deadlines for all air and sea POEs, and the busiest land POEs, and requiring DHS to make data from the system available to immigration officers by December 2005; the *Visa Waiver Permanent Program Act*, which required the Attorney General to develop and implement a fully automated entry-exit system for travelers under the Visa Waiver Program at sea and air POEs by October 2001;⁶ the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*, which required that the system use biometric identifiers in visa and travel documents and explicitly ordered the development of a biometric entry-exit system to “be implemented at all ports of entry;”⁷ the *Enhanced Border Security and Visa Entry Reform Act of 2002*, which required DHS to integrate biometric identifiers into the inspection process and the arrival/departure system;⁸ the *Intelligence Reform and Terrorism Prevention Act of 2004*, which required DHS to develop a plan to accelerate the full implementation of an automated biometric entry-exit system;⁹ the *Implementing Recommendations of the 9/11 Commission Act of 2007*, which tied Visa Waiver program participation to the development and deployment of biometric exit capabilities;¹⁰ the *Department of Homeland Security Appropriations Act of 2009*, which withheld funding for the US-VISIT program until DHS piloted on a biometric air exit program;¹¹

² See Nat’l Comm’n on Terrorist Attacks Upon the U.S., *The 9/11 Commission Report*, 384-386 (2004); see also 85 Fed. Reg. 74162, 74107 (Nov. 18, 2020).

³ P. L. No. 104-828, 110 Stat. 3009-546, 3009-558 (1996).

⁴ P.L. 105-259 (1998) and P.L. 105-277 (1998).

⁵ P.L. 106-215, 114 Stat. 337, 338 (2000).

⁶ P.L. 106-396, 114 Stat. 1637, 1641 (2000).

⁷ P.L. 107-56, 115 Stat. 272, 353 (2001).

⁸ P.L. 107-173, 116 Stat. 543, 552 (2002).

⁹ P.L. 108-458, 118 Stat. 3638, 3817 (2004).

¹⁰ P.L. 110-53, 121 Stat. 266, 338 (2007).

¹¹ P.L. 110-329 (2008).



CENTER FOR IMMIGRATION STUDIES

and the *Consolidated Appropriations Act of 2016* which authorized DHS to increase fees on L-1 and H-1B visas to provide up to \$1 billion for implementation of a biometric exit system.¹² Congress has been clear in its demand that DHS implement a functional and comprehensive biometric entry-exit data collection system.

Despite the numerous statutory mandates and appropriations supporting this project, CBP still does not operate a comprehensive biometric entry-exit collection system. The United States currently collects biographic and biometric data from foreign national travelers entering the United States at all air POEs, but departing the United States by air, biometric data is only collected on foreign nationals ages 14-79 (approximately 80 percent of in-scope travelers).¹³ For sea arrivals, biographic and biometric data are collected at entry, but only biographic data is collected upon exit.¹⁴

Data collection for land entries and exits is the least comprehensive. Biographic and biometric data are collected upon entry at land POEs; biographic exit data collection varies depending on which POE an individual exits the country. Because of the Beyond the Border partnership with Canada, northern border land exits are recorded more reliably than southern border land exits. Southern border land exits often cannot be confirmed by DHS until the departed alien attempts to reenter the country.¹⁵

For decades, the lack of a complete biometric exit system (including missing land departure data) has been identified as one of the principal reasons DHS has struggled to reliably identify overstays,¹⁶ which account for a significant portion of the population of aliens living in the United States illegally. This rule closes a critical regulatory gap by giving CBP to authority to necessary to implement the biometric exit component federal law explicitly requires.

DHS does not have the discretion to disregard or indefinitely delay requirements that Congress has deemed necessary to prevent fraud, identify overstays, and strengthen vetting; doing so would effectively allow the Executive Branch to rewrite or nullify enacted law. This rule enables full implementation of these mandates, ensuring faithful execution of the laws, preserving democratic accountability, and maintaining the rule of law.

¹² P.L. 114-113 (2016).

¹³ U.S. Gov't Accountability Off., *Facial Recognition Technology: CBP Traveler Identity Verification and Efforts to Address Privacy Issues*, GAO-22-106154 at 14 (2022).

¹⁴ Cong. Research Serv., *Immigration: The U.S. Entry-Exit System*, R47541 (May 2023).

¹⁵ *Id.*

¹⁶ See, e.g., U.S. Gov't Accountability Off., GAO-13-683, *Overstay Enforcement: Additional Actions Needed to Assess DHS's Data and Improve Planning for a Biometric Air Exit Program* (2013).



III. DHS Should Remove the Age Restrictions on Biometric Data Collection.

CIS strongly supports amending 8 C.F.R. § 215.8 to remove age restrictions on biometric data collection. By harmonizing DHS regulations with Congress’s biometric collection mandates, DHS can better detect and protect alien children.

CIS disagrees with commenters that argue that collecting biometric data from aliens under the age of 14 violates the INA. The INA is silent regarding collecting biometrics from those under the age of 14 outside of enforcement proceedings. No provision of the INA exempts minors from identification, inspection, or entry-exit controls. In contrast, where Congress has intended to provide age-based exemptions elsewhere in the INA, it has done so expressly. The absence of any such exemption here strongly indicates that biometric compliance is intended to apply uniformly, without regard to age.

The INA, however, does give officers the “power and authority” to “take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of the INA.”¹⁷ Nothing in the INA restricts DHS from using this authority from minors entering or exiting the United States or excludes biometric data from the types of evidence that may be collected for this purpose. As discussed in detail above, to the contrary, Congress has explicitly mandated collection of biometric data from all aliens.

Moreover, CIS disagrees that INA § 287(f)(1) prohibits CBP from collecting biometric data from minors under the age of 14. If an alien is placed in standard section 240 removal proceedings, INA § 287(f)(1) *requires* the government to collect photographs and fingerprints from aliens 14-years or older in removal proceedings. This section, however, does not prohibit DHS from collecting biometric information from any alien entering or exiting the United States, regardless of whether they are placed into removal proceedings.

Importantly, DHS should remove age-based restrictions on biometric entry-exit collection because doing so significantly strengthens the government’s ability to detect and deter child trafficking. Traffickers often exploit minors precisely because they can evade identity verification when children are exempt from biometric screening.¹⁸ When an inadmissible alien brings a child with them to the United States, often they are able to avoid detention that is otherwise mandated by the INA because of the Flores Settlement agreement, limitations on

¹⁷ See INA 287(b).

¹⁸ See Homeland Sec. Advisory Council, *Final Emergency Interim Report, CBP Families and Children Care Panel* at 9 (Apr. 2019) (recommending that CBP amend 8 C.F.R. § 235.1 to enable officers to take photographs and biometrics of children of any age in order to stem the recycling of children at the border and to rapidly determine the legitimacy of parentage claims).



family detention space, and other loopholes in the asylum system.¹⁹ Collecting biometrics from all arriving aliens, regardless of age, ensures that the government can confirm that a child is travelling with the correct custodial parent or legal guardian, identify potential cases of child substitution or document fraud, and create an authoritative record that supports rapid intervention when the government determines the child is at risk.

Congress has repeatedly emphasized that biometric entry-exit controls are essential tools for national security, identity verification, document integrity, and overstay detection, objectives that logically apply to travelers of all ages. It is especially important that DHS extend its biometric collection policies to minors. Not only is it consistent with the INA, but crucial to detecting and addressing child trafficking.²⁰ Moreover, carveouts undermine the completeness of traveler records, frustrating Congress's directive to implement a reliable system for recording entries and departures. DHS's decision to eliminate age-based restrictions ensures consistent application of the biometric framework Congress mandated across multiple statutes and decades.

IV. CBP Should Incorporate Facial Comparison Technology as a Part of the Biometric Entry-Exit System.

CIS agrees with CBP's determination that facial comparison technology is the best option for its biometric entry-exit system because it is, as DHS described, "efficient, accurate, and unobtrusive."²¹ Moreover, CBP should continue to collect fingerprints in addition to utilizing facial comparison technology, as an alternative when capturing a traveler's image is not possible and/or to serve additional law enforcement purposes.

First, it streamlines identity verification by enabling travelers to be processed in seconds without the need for physical contact or the handling of documents. Unlike fingerprint or iris scans, which require a traveler to stop, position their body or hands correctly, or engage with a device, facial comparison can occur passively as a person naturally walks through a checkpoint or while standing at a kiosk. This process would allow CBP to access a traveler's biographic data without needing to scan any documents.²² This significantly improves throughput at high-volume airports and land borders, reducing bottlenecks and allowing officers to allocate time and attention to higher-risk travelers.

Second, facial comparison is materially less intrusive than other biometric modalities. International travelers are already required, via their passport or other visa documents, to be photographed.²³ The process CBP proposes also mirrors the experience of having a photo taken

¹⁹ *Id.* at 2.

²⁰ *Id.* at 6-9.

²¹ 90 Fed. Reg. 48604, 48608 (Oct. 27, 2025)

²² *Id.* at 48606-09.

²³ *See, e.g.*, 8 U.S.C. § 1201(b); 22 C.F.R. § 41.105.



for passports, which is familiar and minimally burdensome to the travelers. To be photographed, for example, travelers do not need to touch equipment, remove clothing or gloves, or undergo close-contact screening.

Third, facial comparison has consistently demonstrated high accuracy and strong performance compared to other modalities in independent testing. Modern facial comparison algorithms achieve exceptionally low false-match and false-nonmatch rates, including across demographic groups, when deployed under operational conditions with high-quality cameras and controlled capture environments, such as those used by U.S. Customs and Border Protection. The National Institute of Standards and Technology's Face Recognition Vendor Test Demographic Effects Report evaluations show facial comparison technology can match travelers at a rate greater than 98 percent.²⁴ This level of precision improves the integrity of identity verification and strengthens the entry-exit system Congress has mandated.

CBP should also continue to collect fingerprints from travelers. Fingerprints, unlike facial comparison technology, are a globally interoperable biometric modality and provide high evidentiary value in law enforcement contexts. Moreover, while facial comparison can detect imposters in real time, fingerprints can allow DHS to uncover prior immigration encounters under different purported identities, criminal histories, and prior custody or trafficking related records.²⁵ Finally, fingerprints provide redundancy when facial comparison technology fails, i.e., when the captured images are not of adequate quality or faces are obscured.

For these reasons, facial comparison technology provides DHS with a uniquely effective balance of speed, user experience, and security, making it an optimal tool for meeting statutory biometric requirements while minimizing operational burdens on both travelers and CBP officers.

V. Conclusion

CIS strongly supports implementation of this final rule. The rule is a necessary step toward fulfilling decades-old congressional mandates, strengthens U.S. border security, deterring identity fraud and will strengthen national security. CIS supports DHS's decision to implement this rule to remove regulatory impediments from implementing a comprehensive biometric data collection system.

By applying uniform biometric standards to all travelers, DHS enhances both accuracy and safety, while closing loopholes that trafficking networks have historically relied upon.

²⁴ See National Institute of Standards and Technology, NISTIR 8280, FRVT Part 3: Demographic Effects 8, 26 (2019) (NIST FRVT Demographic Effects Report).

²⁵ See U.S. Dep't of Homeland Sec., *System Assessment and Validation for Emergency responders (SAVER), Biometric Systems Application Note* (Jun. 2015); International Biometrics + Identity Association, *Biometrics + Identity, Fingerprint Biometrics* (last visited Nov. 2025).



CENTER FOR IMMIGRATION STUDIES

Eliminating these gaps aligns with DHS's broader statutory obligations to secure the border, protect vulnerable populations, and carry out Congress's mandates for a comprehensive biometric entry-exit system.