



**U.S. Citizenship
and Immigration
Services**

USCIS Issues Final Rule on Employment Eligibility Verification Questions and Answers

Final Rule Adopts Interim Rule to Improving Integrity of Form I-9 Process

U.S. Citizenship and Immigration Services (USCIS) announced today a [final rule](#), scheduled to be published in tomorrow's Federal Register, that adopts, without change, an interim rule to improve the integrity of the Employment Eligibility Verification (Form I-9) process. USCIS received approximately 75 public comments in response to the interim rule, which has been in effect since April 3, 2009.

All employers, agricultural recruiters and referrers-for-a-fee are required to verify the identity and employment authorization of each person they hire for employment in the United States. This requirement is set forth in section 274A(a)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. 1324a(a)(1)(B). The key changes made to the Form I-9 process by the interim rule and adopted by the final rule include: prohibiting employers from accepting expired documents for completion of Form I-9 and adding and modifying several documents on the Lists of Acceptable Documents. The final rule will be effective on May 16, 2011. Employers may continue to use the current version of the Form I-9 (Rev. 08/07/2009), or the previous version (Rev. 02/02/2009).

Questions and Answers

Q. What does the final rule accomplish?

A. The final rule adopts, without change, the changes made to the Form I-9 process by the Department of Homeland Security's (DHS) interim final rule that has been in effect since April 3, 2009. The changes further DHS's ongoing effort to increase the integrity of the employment authorization verification process. The key changes include:

- Prohibiting employers from accepting expired documents
- Eliminating from List A identity and employment authorization documentation Forms I-688, I-688A, and I-688B (Temporary Resident Card and outdated Employment Authorization Cards)
- Adding to List A foreign passports containing temporary I-551 printed notations on certain machine-readable immigrant visas
- Adding to List A as evidence of identity and employment authorization valid passports for citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI), along with Form I-94 or Form I-94A indicating nonimmigrant

admission under the Compact of Free Association Between the United States and the FSM or RMI

Q. Why can't I present an expired document?

A. DHS wants to ensure that documents presented for use in the Form I-9 process are valid and reliably establish both identity and employment authorization. Expired documents are prone to tampering and fraudulent use. The requirement to present only unexpired documents takes into account the time limits placed on these documents by their issuing authorities. If a document does not contain an expiration date, as is often the case with a Social Security card, it is considered unexpired.

Q: Does this final rule make any changes to how Form I-9 is completed?

A: No. The final rule adopts, without change, the interim final rule published on December 17, 2008 and in effect since April 3, 2009. It does not make any changes to how the Form I-9 is currently completed.

Q: Is USCIS issuing a new Form I-9 with this final rule?

A: No. Because the final rule adopts the interim rule without change, USCIS is not issuing a new Form I-9 with this rule.

Q: Which versions of Form I-9 may I use?

A: Employers may continue to use either the current version of Form I-9 (Rev. 08/07/2009) or the previous version (Rev. 02/02/2009). These dates are located on the bottom right-hand corner of the form.

Q: Where can I obtain detailed information about the comments you received and how you responded?

A: Discussion of the public comments is featured in the final rule, available for review on USCIS's website at www.uscis.gov and published in the Federal Register. The largest number of comments addressed the interim rule's requirement that all documents presented for Form I-9 purposes be unexpired. Several commentators suggested that the expired documents should be acceptable for some period of time after expiration, e.g., from 30 days to up to five years after expiration. USCIS did not adopt these suggestions because of its concerns about document fraud and employer confusion.

Q: Are the public comments still available for viewing?

A: Yes. The public comments are available on www.regulations.gov under DHS Docket No. USCIS-2008-0001. A description of those comments and the USCIS responses to them are also available in the final rule itself. We have posted a link to the final rule on www.uscis.gov.

Q: Where may I obtain a copy of the newly revised Employer Handbook?

A: The Handbook for Employers, Instructions for Completing the Form I-9 (M-274) was updated on January 5, 2011, and is available on the USCIS website at www.uscis.gov/files/form/m-274.pdf.

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USCIS Issues Final Rule on Employment Eligibility Verification Form

April 14, 2011

Final Rule Adopts Interim Rule Improving Integrity of Form I-9 Process

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) today announced a [final rule](#) that adopts, without change, an interim rule to improve the integrity of the Employment Eligibility Verification (Form I-9) process. USCIS received approximately 75 public comments in response to the interim rule, which has been in effect since April 3, 2009.

The main changes made by the interim rule and adopted by the final rule include: prohibiting employers from accepting expired documents; revising the list of acceptable documents by removing outdated documents and making technical amendments; and adding documentation applicable to certain citizens of the Federated States of Micronesia and the Republic of the Marshall Islands.

Employers must complete Form I-9 for all newly hired employees to verify their identity and authorization to work in the United States. The list of acceptable documents that employees may present to verify their identity and employment authorization is divided into three sections: List A documents, which show identity and employment authorization; List B documents, which show identity only; and List C documents, which show employment authorization only.

The final rule will be published in the Federal Register tomorrow and will be available at www.uscis.gov. The final rule is effective on May 16, 2011. Employers may continue to use the current version of the Form I-9 (Rev. 08/07/2009) or the previous version (Rev. 02/02/2009). The Handbook for Employers, Instructions for Completing the Form I-9 (M-274) was updated on Jan. 5, 2011, and is available for review at www.uscis.gov/files/form/m-274.pdf.

For more information on USCIS and its programs, please visit www.uscis.gov or follow us on Twitter (@uscis), YouTube (/uscis) and the USCIS blog The Beacon.

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