



LABOR & EMPLOYMENT DEPARTMENT/IMMIGRATION PRACTICE

UPDATE!

**NEW FORM I-9 AND ACCEPTABLE DOCUMENTS
DELAYED UNTIL APRIL 3, 2009**

By Alka Bahal

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U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS), is extending the effective date of an Interim Final Rule originally published in the *Federal Register* in December 2008 amending the current regulations regarding the Employment Eligibility Verification Form, known as Form I-9, by a period of 60 days, from February 2, 2009, to April 3, 2009. This temporary extension is intended to provide DHS with an opportunity to further consider the rule.

During the public comment period for this rulemaking action, which was originally scheduled to conclude on February 2, 2009, but has now been extended by 30 days, USCIS received a number of comments requesting an extension of the effective date. In response, USCIS elected, on January 30, 2009, to extend the effective date and comment period for this rule to allow additional public comment on the substantive legal and policy issues under this Interim Final Rule.

Individuals who wish to comment on the Interim Final Rule may do so until March 4, 2009. Comments must be identified by DHS Docket No. USCIS-2008-0001 and may be submitted by one of the following methods:

- (1) Federal eRulemaking Portal:
www.regulations.gov. Follow the instructions for submitting comments.

(2) Mail: Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW, Suite 3008, Washington, DC 20529-2210. To ensure proper handling, please reference DHS Docket No. USCIS-2008-0001 on any correspondence. This mailing address may be used for paper, disk or CD-ROM submissions.

(3) Hand Delivery/Courier: U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW, Suite 3008, Washington, DC 20529-2210. Contact telephone number is (202) 272-8377.

The Interim Final Rule is meant to improve the security of the I-9 process, which all U.S. employers are required to complete for each employee hired. Under the Interim Final Rule, employers will no longer be able to accept expired documents to verify employment authorization on the Form I-9. This rule also removes three documents from the list of acceptable documents to evidence identity and employment authorization, adds two new documents to the list, and makes several technical corrections and updates to the Form I-9 itself. The rule and the new version of the Form I-9 were scheduled to become mandatory on February 2, 2009, but now will not be effective until April 3, 2009. The

new Form I-9 and List of Acceptable Documents is currently available on USCIS' website (<http://www.uscis.gov/files/form/I-9.pdf>).

Employers should continue to use the old version of the Form I-9, indicated by "Rev. 06/05/07" in the lower right of the form, including the Lists of Acceptable Documents as they appear on that version of the Form, until April 3, 2009, when the new form is re-scheduled to take effect.

Fox Rothschild will bring you updated news regarding the progress of this rule when further information is available.

For more information regarding this *Update*, or if you require assistance with your company's immigration or employment issues, including IRCA compliance, social security mismatches, I-9s, raid planning, audits or investigations, please contact Alka Bahal at 973.994.7800 (immigration@foxrothschild.com) or any member of our Labor & Employment Department or Immigration Practice. Visit us on the web at www.foxrothschild.com.



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