

Employment Law Update

New Form I-9 Required Beginning April 3, 2009

BY PENNY HOBBS

Here we go again and again! On December 11, 2008, the Department of Homeland Security submitted an interim rule to the Federal Register for publication, which modifies the Form I-9, including the list of acceptable documents on lists A, B and C. The new interim rule was expected to replace all prior attempts at rule-making and was to be effective February 2, 2009. Well, the Department of Homeland Security has subsequently announced a new effective date of April 3, 2009. Any employer attempting to use the form before the effective date will be subject to civil monetary penalties.

Employers are required to complete Form I-9 for all new hires to verify their identity and authorization to work in the U.S. The list of approved documents that employees can present to verify their identity and employment authorization is divided into three sections: List A documents verify identity and employment authorization, List B documents verify identity only, and List C documents verify employment authorization only. The new Form I-9 and modified lists are to be used for all new hires and to verify any employee with expiring employment authorization beginning 45 days after the interim rule is actually published in the Federal Register. In the meantime, employers can find the text of the rule at www.uscis.gov. The current Form I-9 (dated 06/05/2007) will no longer be valid.

The rule eliminates Forms I-688, I-688A, and I-688B (Temporary Resident Card and older versions of the Employment Authorization Card/Document) from List A. USCIS no longer issues these cards, and all that were in circulation have expired. The rule also adds to List A foreign passports containing specially-marked, machine-readable visas and documentation for certain citizens of the Federated States of Micronesia and the Republic of the Marshall Islands. The rule makes other technical changes to update the list of acceptable documents. The revised Form I-9 includes additional changes, such as revisions to the employee attestation section, and the addition of the new U.S. Passport Card to List A.

The new form will be published on the web site in English and Spanish once it is available. Be sure to watch for updates regarding any additional changes.



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