

U.S. CITIZENSHIP & IMMIGRATION SERVICES (CIS) ANNOUNCES INTERIM FINAL RULE AMENDING THE FORM I-9, EMPLOYMENT ELIGIBILITY VERIFICATION FORM; New Rule Revises List of Acceptable Documents

On December 12, 2008, [U.S. Citizenship & Immigration Services \(CIS\)](#) announced that CIS had submitted an Interim Final Rule scheduled for publication in the Federal Register the week of December 15, 2008. The rule will go into effect 45 days after publication in the Federal Register.

The Interim Final Rule revises the Form I-9 and the list of acceptable documents which may be used for verification of identity and employment authorization during the I-9 employment verification process. Under the new rule, only *unexpired* documents can be accepted during the employment eligibility verification process. The Department of Homeland Security (DHS) justifies this change in order to further reduce the risk of alteration of expired documents by document counterfeiters.

The new rule also eliminates obsolete versions of the Temporary Resident Card and Employment Authorization Document from List-A, while adding to List-A the U.S. Passport Card and foreign passports with machine-readable visas for certain citizens of the Federated States of Micronesia and the Republic of the Marshall Islands.

Finally, the new rule revises the employee attestation section of Form I-9. The selection “A citizen or national of the United States” has been divided into two separate selections, one for U.S. citizens, and one for nationals of the United States. The DHS has made this change in order to make the employee’s attestation clear, removing ambiguity that has hindered the prosecution of individuals who falsely attest to being a citizen or national of the United States when making their selection on the Form I-9.

Upon publication in the Federal Register, the CIS will make the new Form I-9 available via the CIS website, and the public will have 45 days for comment on the Interim Final Rule prior to its effective date. Once the rule is effective, all new eligibility verifications and re-verifications must be completed using the new Form I-9. Should the rule be published in the Federal Register tomorrow, December 18, 2008, all new employment eligibility verifications and re-verifications completed on or after February 1, 2009, must be completed using the new Form I-9. As always, we will continue to monitor regulatory developments relating to an employer’s Form I-9 Employment Eligibility Verification obligations and will make new information available via future Immigration Updates®.