

Legislative Update AUGUST 2023*

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NEW I-9 FORM & FINAL RULE ISSUED CONCERNING REMOTE VERIFICATION

On July 25, 2023, the Department of Homeland Security (DHS) published its final rule detailing the alternative procedure for remote verification of identification and work authorization documents relating to Form I-9. Within the final rule, the DHS outlined that an employer must participate in E-Verify and be in good standing to use the alternative procedure.

On August 1, 2023, U.S. Citizenship and Immigration Services released a revised version of the Form I-9. Changes to the form include a reduction of Sections 1 and 2 to one page and a checkbox for employers enrolled in E-Verify to indicate they remotely examined identity and employment authorization documents under the newly authorized alternative procedure.

Employers can use the previous version of the form through October 31, 2023. After that, all employers must use the new Form I-9. The new form is scheduled to expire July 31, 2026. The new form is located at <https://www.uscis.gov/sites/default/files/document/forms/i-9.pdf>.

Kelli Duehning, an attorney with Berry Appleman & Leiden in San Francisco, said that to qualify to use remote verification, also known as the "alternative procedure," employers must be in good standing with E-Verify. They must:

- Have enrolled in E-Verify for all hiring sites that use the alternative procedure.
- Be in compliance with all E-Verify program requirements, including verifying the employment eligibility of newly hired employees.
- Continue to be a participant in good standing in E-Verify at any time the employer uses remote verification.

New E-Verify employers and any users who manage and create cases must complete an E-Verify tutorial -- free and accessible as part of the enrollment process -- that includes fraud awareness and anti-discrimination training. If a company is an existing E-Verify employer, it should have already gone through the training and doesn't need to again, though it's a good idea for new HR employees, according to Ms. Duehning.

Source: Society for Human Resource Management

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