

Immigration Advisory

From the Buchanan Ingersoll & Rooney Immigration Group

Buchanan Ingersoll & Rooney PC
Attorneys & Government Relations Professionals

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Final Notice on Revised Form I-9 Published

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USCIS published a Final Notice in the Federal Register on November 26, 2007, requiring employers to start using the new Form I-9, Employment Eligibility Verification, beginning December 26, 2007. Employers may incur fines and penalties for failing to use the revised Form I-9 on or after this date.

[As we reported previously](#), the primary change to the new form is the removal of five documents from List A for proof of both identity and employment eligibility. They include: Certificate of U.S. Citizenship (Form N-560 or N-570); Certificate of Naturalization (Form N-550 or N-570); Alien Registration Receipt Card (Form I-151); the unexpired Reentry Permit (Form I-327); and the unexpired Refugee Travel Document (Form I-571). The forms were removed because they lack features to help deter counterfeiting, tampering and fraud.

Additionally, the most recent version of the Employment Authorization Document (Form I-766) was added to List A as acceptable proof of both identity and employment eligibility.

Instructions regarding Section 1 of Form I-9 now indicate that an employee is not obliged to provide a Social Security number in Section 1, unless his or her employer participates in E-Verify, DHS' Internet-based employment eligibility verification system.

The new Form I-9 can be found on the USCIS website at www.uscis.gov or [from our website](#). USCIS has also released a new "Handbook for Employers, Instructions for Completing the Form I-9," which is also available for download on the USCIS website or [from our website](#). The new Form I-9 is dated June 5, 2007.

We continue to monitor the status of employment eligibility verification requirements and will update you with the latest developments. In the meantime, please feel free to contact us with any questions you might have regarding the new Form I-9 or about the I-9 process in general.

DHS Abandons 'No Match' Letter Regulation

On Friday, November 23, 2007, the Department of Homeland Security (DHS) filed a motion with the federal court in San Francisco abandoning its attempt to enforce a 'no match' rule that would have required employers to take specific steps when receiving a Social Security Administration (SSA) 'no match' letter to ensure compliance with legal hiring requirements. A consortium of unions and business groups had filed suit challenging the rule, asserting that the SSA database is error-prone and that the rule would result in the firing of countless authorized workers.

[As we reported previously](#), a federal judge issued a preliminary injunction last month barring DHS from implementing its 'no match' regulation that was originally set to take effect on September 14, 2007. The preliminary injunction also halted SSA/DHS from issuing notices of the new regulation to 140,000 employers across the country. In his ruling, Judge Charles R. Breyer said the new rule would cause irreparable harm to innocent workers and employers.

DHS plans to publish a revised 'no match' rule by March 2008 that it hopes will pass legal muster. We will continue to monitor this issue and provide you with updates as they become available.

State Department Published Final Passport Rule

On November 19, 2007, the U.S. Department of State (DOS) published a final rule that updates existing passport regulations to conform to current practices. The new regulations go into effect February 1, 2008. In general, the revisions do not mark a departure from current policy. Rather, the Department's intent is to bring greater clarity to current passport policy. The new rules reflect several improvements in how DOS will process passports for U.S. citizens:

- To help address the issue of abductees and runaway children, the new regulations extend the two-parent consent and personal appearance requirements to minors under the age of 16, up from age 14.
- The new rules add state or local felony arrest warrants to federal felony warrants as a basis for denial, revocation or restriction of passports.
- The new rules codify the definitions, responsibilities and qualifications of passport agents and passport acceptance agents, including the requirement that passport agents be U.S. citizens.
- The rules clarify what documentation is required of an applicant whose name has changed.

Please do not hesitate to contact us should you have questions or concerns regarding the new final passport rule.

For more information, email the author(s) at immigration@bipc.com.

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