

TITLE 8 OF CODE OF FEDERAL REGULATIONS (8 CFR) \ 8 CFR PART 274a --
CONTROL OF EMPLOYMENT OF ALIENS \ § Sec. 274a.2

§ Sec. 274a.2 Verification of identity and employment authorization. (Revised effective 8/23/10; 75 FR 42575) (Revised effective 2/2/09; 73 FR 76505) 2/2/09 effective date until 4/3/09; 74 FR 5899)

(a) General. This section establishes requirements and procedures for compliance by persons or entities when hiring, or when recruiting or referring for a fee, or when continuing to employ individuals in the United States.

(1) Recruiters and referrers for a fee. For purposes of complying with section **274A(b)** of the Act and this section, all references to recruiters and referrers for a fee are limited to a person or entity who is either an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act, Pub. L. 97-470 (29 U.S.C. 1802)).

(2) Verification form. Form I-9, Employment Eligibility Verification Form, is used in complying with the requirements of this **8 CFR 274a.1 -- 274a.11** . In the Commonwealth of the Northern Mariana Islands (CNMI) only, for a 2-year period starting from the transition program effective date (as defined in **8 CFR 1.1**), the Form I-9 CNMI Employment Eligibility Verification Form must be used in lieu of Form I-9 in complying with the requirements of **8 CFR 274a.1** through **274a.11** . Whenever "Form I-9" is mentioned in this title 8, "Form I-9" means Form I-9 or, when used in the CNMI for a 2-year period starting from the transition program effective date (as defined in **8 CFR 1.1**), Form I-9 CNMI. Form I-9 can be in paper or electronic format. In paper format, the Form I-9 may be obtained in limited quantities at USCIS district offices, or ordered from the Superintendent of Documents, Washington, DC 20402. In electronic format, a fillable electronic Form I-9 may be downloaded from <http://www.uscis.gov> . Alternatively, Form I-9 can be electronically generated or retained, provided that the resulting form is legible; there is no change to the name, content, or sequence of the data elements and instructions; no additional data elements or language are inserted; and the standards specified under **8 CFR 274a.2(e)** , **(f)** , **(g)** , **(h)** , and **(i)** , as applicable, are met. When copying or printing the paper Form I-9, the text of the two-sided form may be reproduced by making either double-sided or single-sided copies. (Corrected effective 11/28/09; **74 FR 62207**)

(3) Attestation Under Penalty and Perjury. In conjunction with completing the Form I-9, an employer or recruiter or referrer for a fee must examine documents that evidence the identity and employment authorization of the individual. The employer or recruiter or referrer for a fee and the individual must each complete an attestation on the Form I-9 under penalty of perjury. (Amended effective 2/2/09; **73 FR 76505**) 2/2/09 effective date until 4/3/09; **74 FR 5899**) (Paragraph (a) revised 6/15/06; **71 FR 34510**) (Amended 10/7/96; **61 FR 52235**)

(b) Employment verification requirements--

(1) Examination of documents and completion of Form I-9.

(i) A person or entity that hires or recruits or refers for a fee an individual for employment must ensure that the individual properly:

(A) Completes section 1--"Employee Information and Verification"--on the Form I-9 at the time of hire and signs the attestation with a handwritten or electronic signature in accordance with paragraph (h) of this section; or if an individual is unable to complete the Form I-9 or needs it translated, someone may assist him or her. The preparer or translator must read the Form I-9 to the individual, assist him or her in completing Section 1--"Employee Information and Verification," and have the individual sign or mark the Form I-9 by a handwritten signature, or an electronic signature in accordance with paragraph (h) of this section, in the appropriate place; and (Revised 6/15/06; **71 FR 34510**)

(B) Present to the employer or the recruiter or referrer for a fee documentation as set forth in paragraph (b)(1)(v) of this section establishing his or her identity and employment authorization within the time limits set forth in paragraphs (b)(1)(ii) through (b)(1)(v) of this section. (Amended effective 2/2/09; **73 FR 76505**) 2/2/09 effective date until 4/3/09; **74 FR 5899**)

(ii) Except as provided in paragraph (b)(1)(viii) of this section, an employer, his or her agent, or anyone acting directly or indirectly in the interest thereof, must within three business days of the hire:

(A) Physically examine the documentation presented by the individual establishing identity and employment authorization as set forth in paragraph (b)(1)(v) of this section and ensure that the documents presented appear to be genuine and to relate to the individual; and (Amended effective 2/2/09; **73 FR 76505**) 2/2/09 effective date until 4/3/09; **74 FR 5899**)

(B) Complete section 2--"Employer Review and Verification"--on the Form I-9 within three days of the hire and sign the attestation with a handwritten signature or electronic signature in accordance with paragraph (i) of this section. (Revised effective 8/23/10; **75 FR 42575**) (Revised 6/15/06; **71 FR 34510**)

(iii) An employer who hires an individual for employment for a duration of less than three business days must comply with paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) of this section at the time of the hire. An employer may not accept a receipt, as described in paragraph (b)(1)(vi) of this section, in lieu of the required document if the employment is for less than three business days. (Revised 9/30/97; **62 FR 51001**)

(iv) A recruiter or referrer for a fee for employment must comply with paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) of this section within three business days of the date the referred individual is hired by the employer. Recruiters and referrers may designate agents to complete the employment verification procedures on their behalf including but not limited to notaries, national associations, or employers. If a recruiter or referrer designates an employer to complete the employment verification procedures, the employer need only provide the recruiter or referrer with a photocopy or printed electronic image of the Form I-9, electronic Form I-9, or a Form I-9 on microfilm or microfiche. (Amended 6/15/06; **71 FR 34510**)

(v) The individual may present either an original document which establishes both employment authorization and identity, or an original document which establishes employment authorization and a separate original document which establishes identity. Only unexpired documents are acceptable. The identification number and expiration date (if any) of all documents must be noted in the appropriate space provided on the Form I-9. (Introductory text revised effective 2/2/09; **73 FR 76505**) 2/2/09 effective date until 4/3/09; **74 FR 5899**)

(A) The following documents, so long as they appear to relate to the individual presenting the document, are acceptable to evidence both identity and employment authorization: (Paragraph (b)(1)(v)(A) revised effective 2/2/09; **73 FR 76505**) 2/2/09 effective date until 4/3/09; **74 FR 5899**) (Paragraph (b)(1)(v)(A) Amended 9/20/93 a t 58 FR 48775 did not become effective until 3/20/96; **60 FR 14353**) (Revised effective 10/4/96; **61 FR 46534**) (Revised 9/30/97; **62 FR 51001**)