

PUBLICATION

Major E-Verify Changes Proposed

July 14, 2015

On June 8, 2015 USCIS released the details of proposed major changes to the E-Verify program. The notice proposes several major changes to the E-Verify program and seeks public comments until August 7, 2015. These changes will affect all employer users, including Federal Acquisition Regulation (FAR) contractors.

The main three main changes are:

1. Requirement that employers re-verify the continuing work authorization of employees within three "Employer" days of the expiration of the employee's "last" grant of work authorization.

This requirement tracks the current continuing duty of employers to re-verify expiring work authorization of employees using Section 3 of the I-9 form or by completing a new I-9.

It differs from the I-9 process in that the E-Verify time frame for re-verification of the employment authorization is three days after its expiration. The I-9 regulations however, require that an employer re-verify the expiring work authorization of an employee on or before the day it expires. The proposed process cannot be started until after the expiration of the employment authorization.

The re-verification requirement extends to employees hired before an employer began participating in the E-Verify program. To that effect, the proposed change would require that employers re-verify an employee's expiring work authorization regardless of whether they have previously created an E-Verify case for that employee or not. This again differs from the current E-Verify program rules that explicitly prohibit an employer verifying the work authorization of employees hired before the employer began participating in the program (with the notable exception of FAR E-Verify employers).

2. Requirement that employers print the re-verification confirmation page and retain it along with an employee's I-9 records or record the re-verification case number on the employee's I-9 Form.
3. Provides a mechanism for employees to seek review of Final-Nonconfirmations issued by E-Verify.