

PUBLICATION

Obama Delays New Form I-9 from February 2 to April 3

February 2, 2009

USCIS made an announcement on Friday, January 30, that the Obama Administration has delayed the effective date of the new Form I-9 from February 2 for 60 days, until April 3. Employers must keep using the old form until then.

USCIS states the purpose of the delay is to review comments to the published interim rule and to consider possible changes to it before making it effective. Thus, employers can expect there may be changes to the new regulation that gave rise to the new Form and to the Form I-9 itself.

Thus, until at least April 3, employers must continue to use the previously existing version of the Form, which has remained available on the USCIS web site. That form version states "Form I-9 (Rev. 06/05/07) N" at the bottom right corner. Because the regulations have not yet taken effect, and a new official notice of delayed implementation is being published in the Federal Register, there is no legal basis for the use of the "new" form. This means that employers must continue to accept the documents that are listed on the existing form, including expired U.S. passports and expired "List B" identity documents.

For our summary of the new rule and form that are now being delayed, see our initial alert and our summary of the new form.