



I-9 Deadline Approaching: Employers Have Until July 31 to Update Critical Immigration Forms

Insights

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If you accepted expired forms of identification from new employees who completed their I-9 forms during the pandemic, your deadline for updating them with current proofs of identification is fast approaching. The Department of Homeland Security recently announced that it was winding down its temporary policy that had allowed for expired List B (proof of identification) documents to be used when completing I-9s because of COVID-related difficulties in renewing such I.D. documents. You have until July 31 to update your I-9 forms to get into compliance with the law. What do you need to know about this fast-approaching deadline?

How We Ended Up Where We Are

In response to the COVID-19 pandemic, the Department of Homeland Security issued a number of temporary policies easing Form I-9 compliance. One of them was the [COVID-19 Temporary Policy for List B Identity Documents](#).

Under this policy, employers were allowed to accept expired List B (proof of identification) documents. Many state and local agencies were under lockdown, so it was difficult – if not impossible – for individuals to renew expired documents such as drivers' licenses, school I.D. cards, Native American tribal documents, and others.

What's Changed?

The Department rescinded this temporary policy on May 1 and began again to require employers to accept only unexpired List B documents. USICS recently announced that employers who accepted expired List B documents prior to May 1, 2022, will have until July 31 update their Forms I-9.

What Should You Do?

Specifically, for employees hired between May 1, 2020 and April 30, 2022 who presented an expired List B document, you need to have them to present to you:

- the renewed List B document;
- a different List B document; or
- a document from List A

• a document from List A.

Important Notes

You do not need to update documents for affected employees who are no longer employed.

When updating List B documentation, you should enter the document's:

- title;
- issuing authority;
- number;
- and expiration date in the "Additional Information" field of Section 2.

Your representative should initial and date the change.

If the List B document was auto-extended by the issuing authority, making it unexpired when it was presented, no update is needed. For example, many states automatically extended the expiration date of certain drivers' licenses due to COVID. Those documents would not need updating.

Remote I-9 Verification Remains in Place – For Now

This move by DHS does not affect its decision to extend its remote I-9 verification flexibility policy, which has been extended once again to October 31, 2022.

Under that temporary policy, if employees hired on or after April 1, 2021, work exclusively in a remote setting **due to COVID-19-related precautions**, they are temporarily exempt from the I-9's physical inspection requirements until they undertake non-remote employment on a regular, consistent, or predictable basis, or the extension of the flexibilities related to such requirements is terminated by DHS, whichever is earlier. You can read more about compliance with this rule here.

Conclusion

With these constantly evolving rules, employers who have adjusted their document inspection protocols during the pandemic may be at a higher risk for expensive monetary fines, potentially running in the thousands of dollars. Now is a good time to review your I-9 files and process to ensure continued compliance.

Fisher Phillips will continue to monitor developments will provide additional guidance as it becomes available. Make sure you are subscribed to Fisher Phillips' Insight system to get the most up-to-date information. If you have further questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney on our Immigration Practice Group.

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