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# Farm Employee Management: Employment Eligibility Verification— The Basics of Form I-9 Compliance

Within three days of a new employee's start date, all employers are required to complete a Form I-9—Employment Eligibility Verification for each new employee. This is nothing new, as it has been the law since 1986. But many employers—especially farm employers—have questions about the correct procedures for completion and filing of this form. This article provides a few of the basics.

The Department of Homeland Security, US Citizenship and Immigration Services (USCIS) requires that the Form I-9 be completed for every single employee, regardless of national origin, within three days after the start of employment. The Form I-9 is not to be completed during the employment selection (application or interview) phase—only at the actual beginning of employment. As stated in the USCIS M-274 Handbook for Employers, “You may not begin the Form I-9 process until you offer an individual a job and he or she accepts your offer.”

In regard to timing requirements, newly-hired employees must complete and sign Section 1 of the Form I-9 no later than the first day of employment. Thereafter, within three days of starting work for pay, the employee must present to the employer documentation which establishes the employee's identity and employment authorization—and the employer must complete and sign the Section 2 certification.

Verify that you have the most current version of the Form I-9. Go to [www.uscis.gov/i-9](http://www.uscis.gov/i-9). Scroll down to the link for the Form I-9. There the employer will also find sub-links for the form, 15 pages of detailed instructions, and the M-274 Handbook for Employers (under Related Links), a 60-page manual full of details and answers to frequently asked questions. For those who prefer a video overview, the USCIS has prepared a 30-minute video which describes the [Form I-9 compliance process](http://www.youtube.com/watch?v=aJayrkPlqPo), [www.youtube.com/watch?v=aJayrkPlqPo](http://www.youtube.com/watch?v=aJayrkPlqPo).

Present a printed Form I-9 to the new employee, any time after the acceptance of the job offer and the first day of employment. This gives the employee the opportunity to review the Lists of Acceptable Documents (List A, List B, and List C).

If the employee cannot complete Section 1 without assistance or needs the Form I-9 translated, this assistance may be provided. The assistant preparer must read/translate the form to the employee, assist the employee in completing Section 1, and have the employee sign or mark the form where indicated. The assisting person must then complete the Preparer and/or Translator Certification block on Form I-9.

By or on the first day of employment, the new employee should complete Section 1 of the Form I-9 and present document(s) so that the employer can complete Section 2—Employer Review and Certification within three days of the start of employment.

Take heed of the notice found on both the form itself as well as the instructions – it is illegal to use the form to discriminate against individuals, and employers cannot specify which document(s) they will accept from an employee. The refusal to hire individuals because documents provided have a future expiration date may also constitute illegal discrimination.

Employees may present any one document from List A, or a combination of one document from List B plus one document from List C. The employee must be allowed to choose which document(s) to present from the Lists of Acceptable Documents.

In completing Section 2, the employer examines the document(s) presented by the employee. Employers may only accept unexpired documents. Employers are not required to be forensic document examiners. The employer must accept any documents from the Lists of Acceptable Documents that (1) reasonably appear on their face to be genuine; and (2) appear to

relate to the person presenting them. After making the document examination and completing the information requested in Section 2, the employer signs the certification.

A common question is whether the employer should make copies of documents presented by employees. There is no reason to do so, and this practice only serves to increase the burden on the employer. If the employer chooses to copy documents, this must be done for each and every employee; and then the copies must be stored with the Form I-9 documents. Since there is no purpose or advantage to making copies of documents presented, it is generally recommended to not engage in this practice.

The Form I-9 is not an employment record; rather, it is an immigration law compliance form. Therefore, the Form I-9s should be filed and stored separately from other employment-related documents. One methodology for the typical farm employer is to maintain two folders or three-ring binders. In the first binder, maintain the Form I-9s for all current employees. In the second binder, place the Form I-9s for all terminated employees. Use the second binder to follow the federal regulations which state the employer must retain a Form I-9 for each person hired for three years after the date of hire, or one year after the date employment ends, whichever is later.

To facilitate the disposal of these past-employee Form I-9s, this second binder should have a series of tabs for the years and months. When employment is terminated, move that employee's Form I-9 from the first binder to the second binder. When the appropriate amount of time has passed as described by the above rule, dispose of the former employee's Form I-9. With this simple methodology, the employer always has a properly-

maintained Form I-9 file on hand. Note—the M-274 Handbook referenced earlier in this article has a Form I-9 Retention Calculator which makes it easy to determine the date on which the Form I-9 may be disposed. The Retention Calculator can also be found directly at the [USCIS website](http://www.uscis.gov/i-9-central/complete-correct-form-i-9/retention-and-storage), [www.uscis.gov/i-9-central/complete-correct-form-i-9/retention-and-storage](http://www.uscis.gov/i-9-central/complete-correct-form-i-9/retention-and-storage).

For more details and information regarding Form I-9 compliance, the best resource is [I-9 Central on the USCIS website](http://www.uscis.gov/i-9-central), [www.uscis.gov/i-9-central](http://www.uscis.gov/i-9-central). There are instructions, handbooks, frequently-asked-questions, and more.

### Farm Employee Management Series

The complete [Farm Employee Management Series](#) can be found on the Ag Decision Maker website at [www.extension.iastate.edu/agdm/wdhumanresources.html](http://www.extension.iastate.edu/agdm/wdhumanresources.html).

C1-70 Get the Right Start in Hiring Employees  
C1-71 The Job Interview, and What Questions Can I Ask?

C1-72 Do We Need an Employee Handbook?

C1-73 Assembly of Farm Job Descriptions

C1-74 Put Job Descriptions to Work on Your Farm

C1-75 Evaluation and Selection of Job Candidates

C1-76 Getting the New Employee Off to a Good Start on Day One

C1-77 Employment Eligibility Verification—The Basics of Form I-9 Compliance

C1-78 New Employee Orientation

C1-79 Farm Safety and Hiring Youth on the Farm

C1-80 Applicant Background Checks

C1-81 Terminating Employees in Iowa

C1-82 Health, Stress, and Well-Being

C1-84 Five Steps to Formulate Workforce Contingency Plans

C1-85 Protect Farm Workers from Heat-Related Stress and Illness

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