

March 24, 2020

DHS Defers Form I-9 Physical Inspection Requirement Due to COVID-19



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As employers nationwide have turned to teleworking to help “flatten the curve,” the Department of Homeland Security (DHS) announced on March 20 that it will defer the physical presence requirement of the Employment Eligibility Verification (Form I-9) under Section 274A of the Immigration and Nationality Act (INA). Ordinarily, the employer “must physically examine” the approved document(s) within three days of the employee’s first day of employment.

Now, employers operating remotely may inspect documents electronically (e.g., over video link, email, etc.) and obtain, inspect and retain copies of the documents within three business days for purposes of completing Section 2 of the form. Employers also should enter “COVID-19” as the reason for the physical inspection delay in the “Additional Information” field once physical inspection takes place after normal operations resume. This procedure will remain in place for a period of 60 days from announcement or within three business days after the termination of the current “National Emergency,” whichever comes first.

Employers who use this procedure must provide written documentation of their remote onboarding and telework policy for each employee.

Once normal operations resume, all employees who were onboarded using remote verification must report to their employer within three business days for in-person verification of identity and employment eligibility documentation. Once the documents have been physically inspected, the employer should add “documents physically examined” with the date of inspection to Section 2 or Section 3 as appropriate.

While this procedure only applies to employers and workplaces that are operating remotely, if any newly hired employees who would otherwise be physically present are subject to COVID-19 quarantine or lockdown protocols, then DHS will evaluate such situations on a case-by-case basis.

DHS additionally announced that effective March 19 any employers served with a notice of inspection during the month of March 2020 will be granted an automatic extension for 60 days from the effective date. At the end of the 60-day extension period, DHS will determine if an additional extension will be granted.

DHS will provide updated guidance as needed. Employers are instructed to continue monitoring the [DHS](#) and [ICE](#) websites for additional updates.