

June 1, 2021

DHS Extends Deferral of I-9 Physical Document Inspection Due to COVID-19



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Human Resources & Employment

Back in March 2020 we [advised](#) that — for employees working remotely — the Department of Homeland Security (DHS) was deferring the physical presence requirement of the Employment Eligibility Verification (Form I-9). Ordinarily, the employer “must physically examine” the approved document(s) within three days of the employee’s first day of employment.

Because of continued precautions being taken due to COVID-19, DHS has announced that they will extend the deferral until August 31, 2021, which includes employees hired on or after June 1, 2021. This means that employees who are still *exclusively* working remotely are exempt from physically presenting documents. However, the exemption ends once they are non-remote on a “regular, consistent, or predictable basis,” or the extension expires, whichever occurs first.

Under the continued deferral, employers may comply with Section 2 of the I-9 by inspecting and copying documents electronically (e.g. video link, email).

As before, however, once the employee is nonremote, in-person physical inspection is required within three business days. After the inspection, the employer should add “documents physically examined” with the date of inspection to Section 2 or Section 3, as appropriate, and enter “COVID-19” as the reason for the physical inspection delay in the “Additional Information” field.

If you have questions regarding this deferral, or any issues discussed in this article, please contact any of the attorneys in the [Human Resources and Employment Law Practice](#) at Gould & Ratner for further guidance.