

Legal Update Article

# **How New I-9 Rule and Alternative Inspection Procedure Can Help Manufacturers**

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## Meet the Authors



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Proper completion of the Employment Eligibility Verification Form I-9 is one of the most important responsibilities of employers, including manufacturers, at the beginning of the hiring process. Saying it learned from the COVID-19 pandemic, the Department of Homeland Security has published a [final rule](#) that provides eligible employers completing the I-9 an optional alternative to the in-person physical document examination method that employers have followed as part of the Form I-9 process since its inception in 1986.

For employers with multiple manufacturing sites, it can be a challenge to have consistent I-9 compliance because there may not be a designated HR person at each site or that person may not be able to physically review documents within the three-day window. Proper completion also involves having well-trained individuals reviewing and completing the documents that can also be a challenge for some manufacturers.

The new alternative allows employers enrolled in E-Verify to use a “live video” inspection instead. This opens the possibility that manufacturers can designate one well-trained person at one location to review and complete all of the forms I-9. The one person will be able to review and complete the Form I-9 for workers at any manufacturing site.

The optional alternative verification process requires the following to occur within three business days of the first day of employment:

- The employee must transmit a front and back (if the document is two-sided) copy of the identity and employment authorization documentation to the employer;
- The employer must examine the copies of the Form I-9 documentation or an acceptable receipt to ensure that the documentation presented reasonably appears to be genuine;
- The employer then must conduct a live video interaction with the individual, who must present the same documentation to ensure that the documentation reasonably appears to be genuine and related to the individual;
- The employer will then indicate on Form I-9, by completing the corresponding box on the updated form, that an alternative procedure was used to examine documentation to complete Section 2 or for reverification, as applicable; and
- The employer must retain, consistent with applicable regulations, a clear and legible copy of the documentation (front and back if two-sided).

For manufacturers that may struggle with consistent, timely proper completion with the Form I-9, using the alternative verification process may provide a solution. Please reach out to a Jackson Lewis attorney to discuss this option.

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