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

By Nicola Ai Ling Prall August 14, 2023

## Meet the Authors



Nicola Ai Ling Prall Principal 919-760-6467 Nicola.Prall@jacksonlewis.com

## **Related Services**

Immigration Manufacturing 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 <u>final rule</u> 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. ©2023 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <a href="https://www.jacksonlewis.com">https://www.jacksonlewis.com</a>.