

## DHS Proposes Permanent Rule Allowing Remote Verification of Form I-9 Documents



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The Department of Homeland Security (DHS) and the U.S. Immigration and Customs Enforcement have [recently](#) proposed a permanent rule to allow employers to remotely review the Employment Eligibility Verification form (Form I-9) identity and employment authorization documents when hiring, reverifying or rehiring employees.

In light of technological advances and new work arrangements—like remote work—the DHS is exploring alternative options for Form I-9 document verification. If finalized, the proposed rule would allow the DHS to create a framework to authorize alternative options for Form I-9 document examination procedures for some or all employers, according to a Notice of Proposed Rulemaking. The proposed rule would formalize the department's authority to extend flexibilities, provide alternative options and conduct pilot programs to further evaluate alternative procedures for some or all employers, regardless of whether their employees physically report to work at an employer worksite.

Additionally, the DHS proposed updating Form I-9 to allow employers to indicate whether they inspected employee identity and employment authorization documents using alternative procedures, like remote verification. The department has requested input on several issues, such as protecting privacy, fraudulent document detection and anti-discrimination training requirements.

### What's Next?

On August 18, 2022, the DHS formally published the proposed rule in the Federal Register; 60 days are provided for public comment. Subsequently, the department will review comments and determine whether to move forward with a final rule. Experts expect the DHS to implement a permanent rule allowing remote verification of Form I-9 documents.

Eligible employers operating remotely will be able to continue utilizing the flexibilities extended during the COVID-19 pandemic to conduct remote verifications until the end of October. However, employers will want to follow the DHS's rule-making process closely.

We will keep you apprised of any notable updates on Form I-9 remote verification.

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