



Employment Law **ALERT** FEBRUARY 2, 2009

USCIS Delays Implementation of Revised Form I-9 for Employment Eligibility Verification

U.S. Citizenship and Immigration Services (USCIS) has delayed the effective date of the new Form I-9 for 60 days until April 3, 2009. In December 2008, USCIS published an interim final rule intended to streamline the employment eligibility verification process in which an employer completes USCIS Form I-9 for each newly hired employee, or in some cases, for re-verifying the employment authorization of existing employees. The interim final rule and revised USCIS Form I-9 narrowed the list of acceptable identity documents and prohibited any expired documents from being used for identification.

The interim final rule was to have taken effect on February 2, 2009. Employers would have been required to use the revised Form I-9, dated 02/02/2009, for all new hires and to re-verify any employee with expiring employment authorization on and after that date. However, the current version of Form I-9, dated 06/05/2007, should remain in use until at least April 3, 2009, or further notice.

Employers should continue to follow standard Form I-9 procedures. Employers must complete Form I-9 for each newly hired employee to verify his or her identity and authorization to work in the United States. The list of approved documents that an employee can present to verify his or her identity and employment authorization is divided into three sections: **List A** documents verify *identity* and *employment authorization*, **List B** documents only verify *identity*, and **List C** documents only

verify *employment authorization*. An employee may present one document from **List A** or one document from each of **List B** and **List C**.

The revised Form I-9 eliminates Forms I-688, I-688A, and I-688B (Temporary Resident Card and older versions of the Employment Authorization Card/Document) from **List A**. USCIS no longer issues these cards, and all those that were in circulation have expired. Added to **List A** are (a) a foreign passport with a temporary I-551 stamp or a temporary I-551 printed notation on a machine-readable immigrant visa, (b) documentation for certain citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI), and (c) the new U.S. Passport Card. The new form has other changes, such as revisions to the employee attestation section. In "Section 1 – Employee Information and Verification," an employee can now attest to being either a citizen or noncitizen national of the United States.

If you have further questions, please do not hesitate to contact Richard Salamy at (405) 552-2232 or any of the labor and employment attorneys listed on the reverse side.

This Alert has been provided for information of clients and friends of McAfee & Taft A Professional Corporation. It does not provide legal advice, and it is not intended to create a lawyer-client relationship. Readers should not act upon the information in this Alert without seeking professional counsel.

MCAFFEE & TAFT LABOR & EMPLOYMENT ATTORNEYS

LAUREN E. BARGHOLS
lauren.barghols@mcafeetaft.com
(405) 552-2343

HEIDI SLINKARD BRASHER
heidi.brasher@mcafeetaft.com
(918) 574-3012

TIMOTHY J. BOMHOFF
tim.bomhoff@mcafeetaft.com
(405) 552-2339

BRANDON L. BUCHANAN
brandon.buchanan@mcafeetaft.com
(405) 552-2307

VICKIE J. BUCHANAN
vickie.buchanan@mcafeetaft.com
(405) 552-2331

JOHN A. BURKHARDT
john.burkhardt@mcafeetaft.com
(918) 574-3001

TODD COURT
todd.court@mcafeetaft.com
(405) 552-2330

REUBEN DAVIS
reuben.davis@mcafeetaft.com
(918) 574-3008

JACQUE BRAWNER DEAN
jacque.dean@mcafeetaft.com
(405) 552-2364

BRADLEY K. DONNELL
brad.donnell@mcafeetaft.com
(405) 552-2308

MARK FOLGER
mark.folger@mcafeetaft.com
(405) 552-2327

SAM R. FULKERSON
sam.fulkerson@mcafeetaft.com
(405) 552-2369

SHAWN E. HARRELL
shawn.harrell@mcafeetaft.com
(405) 552-2205

GERALD L. HILSHER
gerald.hilsher@mcafeetaft.com
(918) 574-3036

RODNEY K. HUNSINGER
rodney.hunsinger@mcafeetaft.com
(405) 552-2275

MICHAEL F. LAUDERDALE
michael.lauderdale@mcafeetaft.com
(405) 552-2257

ANDREW S. LONG
andy.long@mcafeetaft.com
(405) 552-2293

LINCOLN C. MCELROY
lincoln.mcelroy@mcafeetaft.com
(918) 574-3011

CHARLES S. PLUMB
charlie.plumb@mcafeetaft.com
(918) 574-3003

TONY G. PUCKETT
tony.puckett@mcafeetaft.com
(405) 552-2251

TAMARA S. PULLIN
tamara.pullin@mcafeetaft.com
(405) 552-2290

NATALIE K. RAMSEY
natalie.ramsey@mcafeetaft.com
(405) 552-2325

PAUL A. ROSS
paul.ross@mcafeetaft.com
(405) 552-2383

KRISTIN M. SIMPSEN
kristin.simpson@mcafeetaft.com
(405) 552-2395

JOSHUA W. SOLBERG
josh.solberg@mcafeetaft.com
(405) 552-2345

MARK D. SPENCER
mark.spencer@mcafeetaft.com
(405) 552-2368

PETER T. VAN DYKE
peter.vandyke@mcafeetaft.com
(405) 552-2211

SUSAN E. WALKER
susan.walker@mcafeetaft.com
(918) 574-3014

DARA K. WANZER
dara.wanzer@mcafeetaft.com
(405) 552-2340

JAMES R. WEBB
jim.webb@mcafeetaft.com
(405) 552-2246

NATHAN L. WHATLEY
nathan.whatley@mcafeetaft.com
(405) 552-2365

AMY D. WHITE
amy.white@mcafeetaft.com
(405) 552-2337

ELIZABETH SCOTT WOOD
elizabeth.wood@mcafeetaft.com
(405) 552-2270

MCAFFEE & TAFT

www.mcafeetaft.com

Oklahoma City

TWO LEADERSHIP SQUARE
211 NORTH ROBINSON • SUITE 1000
OKLAHOMA CITY, OK 73102-7103
(405) 235-9621 • FAX (405) 235-0439

Tulsa

500 ONEOK PLAZA
100 WEST 5TH STREET
TULSA, OK 74103
(918) 587-0000 • FAX (918) 599-9317