

removal proceedings must be filed between October 1, 1994, and October 1, 1997.

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Dated: September 24, 1997.

**Janet Reno,**

*Attorney General.*

[FR Doc. 97-25931 Filed 9-29-97; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 274a

[INS NO. 1818-96]

RIN 1115-AE94

#### Interim Designation of Acceptable Documents for Employment Verification

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) amended existing law by removing certain documents from the list of acceptable documents for use in the employment eligibility verification process. By law, those changes take effect no later than September 30, 1997, and this rule implements those changes. Although the Immigration and Naturalization Service (Service) is in the process of developing proposed rules to revise and streamline the employment verification process, together with revised forms and guidance, those rules are not yet ready to be promulgated. Thus, in promulgating this interim rule to implement the changes striking certain documents from the statutory list, the Service is also exercising available regulatory authority to restore many of the existing documents, insofar as possible, by designating them to be retained on the list of acceptable documents until further notice. This notice is intended to retain the status quo as much as possible at this time, pending the completion of action on the document reduction program, which will be accomplished in a separate rulemaking action.

**DATES:** This interim rule is effective September 30, 1997.

*Comment date:* Written comments must be submitted on or before December 1, 1997.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions

Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1818-96 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Marion Metcalf, Special Assistant, HQIRT, 425 I Street NW., Washington, DC, 20536; (202) 307-6596; or email at metcalfm@justice.usdoj.gov. Please note that the email address is for further information only and may not be used for the submission of comments.

**SUPPLEMENTARY INFORMATION:** The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, enacted on September 30, 1996, amended the employer sanctions provisions of section 274A of the Immigration and Nationality Act (Act) to require a reduction in the number of documents acceptable for completion of the Employment Eligibility Verification form (Form I-9). These amendments must be in effect no later than September 30, 1997. This interim rule is necessary to implement the changes required by IIRIRA.

The Service is currently developing a document reduction initiative which will result in a number of changes in this area, including eliminating various documents from the existing lists, revising the Form I-9, and developing new guidance for employers and employees regarding the employment verification process. Those changes, when finalized, will implement the changes enacted by IIRIRA as well as respond to other concerns about the present process. However, that initiative, which the Service intends to publish as a proposed rule in a separate rulemaking action within the next 6 months, is not yet ready for promulgation.

At this time, the Service must amend its rules to take account of the statutory changes that take effect September 30, 1997. However, although IIRIRA deleted certain documents from the statutory list of acceptable documents, the Act also retained (in amended form) the authority of the Attorney General to designate specific documents as acceptable in addition to the statutory list. Accordingly, in amending existing regulations to take account of these statutory changes, the Service at the same time is also acting to restore the use of some of those documents by exercising available authority (as amended by IIRIRA) to continue to designate certain documents as

acceptable for employment verification until completion of the separate document reduction initiative.

By this means, as discussed in more detail below, the Service is acting to designate foreign passports with specified Service work authorization stamps in two instances as "List A" documents—that is, as documents evidencing both identity and work authorization. This rule also expands the existing receipt rule to ensure that certain refugees and lawful permanent residents will still be able to meet the employment verification requirements even though they do not yet have a required document. Finally, even though IIRIRA eliminates birth certificates as a specific statutory "List C" document—this is, as a document evidencing employment authorization—this rule reflects a determination (as a matter of discretionary regulatory authority) to designate birth certificates as an acceptable document for this purpose. (This designation of birth certificates will continue only until completion of the separate rulemaking proceeding. The Service intends to propose elimination of the use of birth certificates, as well as certain other existing documents, in that proposed rule.)

The result of the statutory changes and the new designations embodied in this interim rule is that all of the existing "List A" documents will be retained, except for the following three kinds of documents: a Certificate of U.S. Citizenship; a Certificate of Naturalization; and a foreign passport not meeting the standards set forth in this interim rule, as discussed below. As to those three documents, there is no statutory authority to retain them on "List A." In addition, there will be no change at all at this time with respect to either "List B" documents (evidencing identity) or "List C" documents (evidencing employment authorization).

The purpose of this interim rule is to maintain the status quo as much as possible during this transitional period so as to avoid confusion and disruption in the employment verification process at this time. Although some changes are required by law, the Service recognizes that these changes are necessarily being implemented with little advance public notice, and without any revisions to the existing Form I-9 and the published Handbook for Employers (Form M-274). Accordingly, as explained below, in order to minimize confusion and disruption, the Service will exercise its discretion to forgo enforcement actions against employers who continue to act in reliance upon and in compliance with existing employment verification

forms, guidance, and procedures. This policy will remain in effect until the new document reduction program, together with a revised Form I-9 and guidance to employers, can be implemented in the separate rulemaking proceeding.

The following discussion explains in more detail the background of this regulatory action; the specific changes being made in this interim rule; and the basis for the interim designations of certain documents as implemented in this rule.

### Background on Document Reduction

The Act, as amended, currently requires persons or entities to verify the employment eligibility and identity of all new hires. The Employment Eligibility Verification form (Form I-9) was designated for that purpose. Newly hired individuals must attest to the status that makes them eligible to work and present documents that establish their identity and eligibility to work. Employers and recruiters and referrers for a fee (as defined in section 274(a)(1)(B)(ii) of the Act and 9 CFR 274a.2(a)) must examine and documents and attest that they appear to be genuine and to relate to the individual. They may not specify a document or combination of documents that the individual must present. To do so may violate section 274B of the Act.

The statutory framework, implemented by regulation at 8 CFR 274a.2, provides for three lists of documents: documents that establish both identity and employment eligibility (List A documents); documents that establish identity only (List B documents); and documents that establish employment eligibility only (List C documents).

### Scope of the Interim Rule

To implement IIRIRA, this interim rule amends the regulations to:

- (1) Remove the certificate of United States citizenship and the certification of naturalization as documents acceptable under List A;
- (2) Retain the designation of a foreign passport with temporary evidence of permanent resident status as a document acceptable under List A, and limit the use of a foreign passport with a Form I-94 to those nonimmigrants who are authorized to work for a specific employer; and
- (3) Clarify and expand the receipt rule under which work-eligible individuals who are unable to present a required document may present a receipt under certain circumstances.

This interim rule also exercises regulatory authority to continue the

designation of birth certificates as documents acceptable under List C. Accordingly, no change to List C is necessary at this time.

### Enforcement Postponed for Employers and Recruiters or Referrers for a Fee With Respect to Changes Made to the List of Acceptable Documents in This Interim Rule

To minimize confusion among the employment community and the potential for discriminatory hiring practices, this rule makes at this time only those changes to the current regulations needed to ensure that the current regulations conform with the statutory amendments made by IIRIRA. Consequently, this rule reduces the list of documents acceptable for employment verification under List A, and retains birth certificates (which are currently on List C) as acceptable for employment verification purposes. This means that List C remains in effect without change.

This rule does not include a revised Form I-9. Employers and recruiters and referrers for a fee are to continue to use the current version of the Form I-9 (edition 11/21/91) to complete the employment verification process until the Form I-9 is revised. As a result, the Service has determined in its prosecutorial discretion not to seek a civil money penalty, until further notice, for any violations based upon the changes made by this rule to the list of acceptable documents.

The Service intends to propose more comprehensive changes to the employment verification process, a further reduction in the number of acceptable documents, and a revision to the Form I-9 in a forthcoming rulemaking. The public will be provided an opportunity to comment on any proposed changes at that time. Thus, the Service will withhold enforcement of civil money penalties for violations associated with these changes and committed before the effective date of a final rule containing the revised Form I-9, so that employers or recruiters or referrers for a fee will not be penalized if they accept documents that were previously acceptable but were removed from the list by this interim rule.

### Section 412(a) of IIRIRA—Amending the Documents Acceptable Under List A and List C

Section 412(a) of IIRIRA amends the Act with respect to List A and List C documents. To implement this provision in a way that would cause the least confusion to the public and to minimize the potential for discriminatory hiring practices, this rule

amends the regulations to reduce the current number of List A documents but to designate certain foreign passports in two instances. This rule does not reduce the current number of List C documents. Instead, this rule retains the documents currently listed as List C documents in the regulations as acceptable List C documents under IIRIRA.

#### A. Documents Evidencing Both Identity and Employment Eligibility (List A)

Section 412(a) of IIRIRA amends section 274A(b)(1)(B) of the Act which governs the documents that individuals may present to establish both identity and employment eligibility. Section 412(a) of IIRIRA eliminates three documents from the statutory list: (1) Certificate of United States citizenship; (2) certificate of naturalization; and (3) an unexpired foreign passport with an endorsement that indicates eligibility for employment. The documents remaining on the list by statute are: a United States passport; a resident alien card; an alien registration card; or other document designated by the Attorney General. Each document designated by the Attorney General must meet three conditions: The document must not only contain a photograph and personal identifying information, and constitute evidence of employment authorization, but it now must also contain "security features to make it resistant to tampering, counterfeiting, and fraudulent use."

To implement section 412(a) of IIRIRA, this rule amends the current regulations to limit the documents that evidence both identity and employment authorization to:

- (1) A United States passport;
- (2) An Alien Registration Receipt Card or Permanent Resident Card (Form I-551);
- (3) A foreign passport with a Temporary I-551 stamp;
- (4) An Employment Authorization Document (EAD) issued by the Service which contains a photograph (Form I-766), Form I-688, Form I-688A, or Form I-688B); and,
- (5) In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with an Arrival-Departure Record (Form I-94) bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, so long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the Form I-94.

### 1. Service-Issued Employment Authorization Document

This rule retains the Employment Authorization Document (Forms I-766, I-688, I-688A, and I-688B) as an acceptable List A document. These forms meet the three statutory conditions that limit the Attorney General's authority to designate additional List A documents. First, these Service-issued forms all contain a photograph and additional identifying information of the bearer, including a fingerprint of the bearer and the bearer's date of birth. Second, the forms are evidence that the Service has granted employment authorization to the bearer. Third, the Service has designed each of the forms to contain security features that make them resistant to tampering, counterfeiting, and fraudulent use.

### 2. Foreign Passports With an I-551 Stamp

This rule designates foreign passports as acceptable evidence of identity and employment authorization, but limited to two instances. The first relates to aliens lawfully admitted for permanent residence under section 101(a)(20) of the Act. Persons newly admitted for or adjusted to lawful permanent residence may receive evidence of that status through a stamp in their passports. The stamp serves as temporary evidence of permanent resident status until the individual receives Form I-551 from the Service. If the stamped endorsement includes an expiration date, the document must be reverified by the employer on the Form I-9. The newest versions of the Form I-551 also bear an expiration date but the actual Form I-551 need to be reverified when the card expires; only the stamp must be reverified when expired.

### 3. Foreign Passports With Form I-94

The second instance in which a foreign passport is designated as a List A document is when it is presented with Form I-94 indicating a nonimmigrant classification that enables the alien to work with a specific employer incident to his or her nonimmigrant status until the expiration date specified on the form.

Aliens in classes identified in § 274a.12(b) are authorized employment with a specific employer incident to status. The Service does not currently require aliens in these classes to obtain an employment authorization document—i.e., a Form I-688B or Form I-766—and does not plan to implement such a requirement at this time. The documentation that a nonimmigrant alien is issued to demonstrate that he or

she is authorized to work incident to status with a specific employer is the Form I-94 with an endorsement that specifies the alien's nonimmigrant status. In addition to the regulations at § 274a.12(b), the current version of the Handbook for Employers (M-274) enumerates for employers and recruiters or referrers for a fee the applicable nonimmigrant classifications. These classifications include: foreign government officials and their employees (A-1, A-2, A-3); foreign government officials in transit (C-2, C-3); nonimmigrant treaty traders or investors (E-1, E-2); nonimmigrant students engaged in on-campus employment or curricular practical training (F-1); representatives of international organizations and their employees (G-1, G-2, G-3, G-4, G-5); temporary workers or trainees (H-1, H-2A, H-2B, H-3); information media representatives (I); exchange visitors (J-1); intra-company transferees (L-1); aliens having extraordinary ability in the sciences, arts, education, business, or athletics and accompanying aliens (O-1, O-2); athletes, artists or entertainers (P-1, P-2, P-3); international cultural exchange visitors (Q); aliens having a religious occupation (R); officers and personnel of the armed services of nations of the North Atlantic Treaty Organization and representatives, officials, and staff employees of NATO (NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, NATO-6); and citizens of Canada or Mexico pursuant to the provisions of the North American Free Trade Agreement (TN).

The IIRIRA provides that the Attorney General "may prohibit or place conditions on "specific document if the Attorney General finds that the document "does not reliably establish [employment] authorization or identity or is being used fraudulently to an unacceptable degree." The Service finds that documentation issued to or used by nonimmigrants does not reliably establish employment eligibility except for documentation indicating a nonimmigrant classification that authorizes employment with a specific employer incident to status. The interim rule, therefore, places the following condition on the foreign passport with a Form I-94: that the foreign passport with the Form I-94 is only acceptable where the individual is authorized to work incident to status with a particular employer, and the Form I-94 indicates an employer-specific nonimmigrant classification. Such documentation may be used only for purposes of establishing eligibility to work for the approved employer. This restriction

does not relieve employers of the requirement to abide by any terms or conditions specified on any documentation issued by the Service. Similarly, the restriction does not permit employers to require individuals to present a specific document. The restriction does mean that a Form I-94 endorsed to permit employment incident to status with a specific employer may not be accepted as evidence of eligibility to work for other employers.

### 4. Conditions Qualifying Foreign Passports With the I-551 Stamp or Form I-94 as a Proper Designation

The Service finds that, in the above instances, foreign passports meet the three conditions that authorize the Attorney General to add documents to List A. First, foreign passports bear a photograph and identifying information (such as the birth date and physical characteristics of the bearer). Second, they are evidence of employment authorization when they bear a temporary I-551 stamp or are presented together with Form I-94 endorsed with a nonimmigrant classification that authorizes employment with a specific employer incident to status. Finally, foreign passports contain security features to make them resistant to tampering, counterfeiting, and fraudulent use. Temporary I-551 stamps are made with secure ink and meet internal Service standards. Form I-94 is only acceptable with a foreign passport in employer-specific situations in which the employer examining the Form I-94 for employment verification purposes is the same employer who petitioned for the alien to receive his or her nonimmigrant status or is otherwise approved to accept the alien for employment. Note that employers are required to reverify the individual's eligibility to work when the stamped authorization expires.

### B. Documents Evidencing Employment Authorization (List C)

Section 412(a) of IIRIRA amends section 274A(b)(1)(C) of the Act by removing the certificate of birth in the United States (or other certificate found acceptable by the Attorney General as establishing United States nationality at birth) from the statutory list of acceptable documents that may be used to establish employment authorization for compliance with the employment verification requirements.

The inclusion of the unrestricted social security account number card on List C remains undisturbed by section 412(a) of IIRIRA. Thus, this rule does not amend the current regulations with

respect to the social security account numbered card; it remains on the list of acceptable documents as before.

Under section 274A(b)(1)(C)(ii), as amended, it is within the Attorney General's authority to designate "other documentation evidencing authorization of employment in the United States which the Attorney General finds, by regulation, to be acceptable for purposes of this section." Exercising that authority, the Attorney General finds that the remaining documents listed in the current regulations are acceptable List C documents. These documents are:

(1) A Certification of Birth Abroad issued by the Department of State, Form FS-545;

(2) A Certification of Birth Abroad issued by the Department of State, Form DS-1350;

(3) An original or certified copy of a birth certificate issued by a State, county, municipal authority, or outlying possession of the United States bearing an official seal;

(4) A Native American tribal document;

(5) A United States Citizen Identification Card, INS Form I-197;

(6) An identification card for use of a resident citizen in the United States, INS Form I-179; and

(7) An unexpired employment authorization document issued by the Service.

The finding to retain all the List C documents currently listed in the regulations for this rule is necessary to minimize confusion and the potential for discriminatory hiring practices that otherwise might result if this rule removed documents from the current list without first providing an opportunity for public comment or an education period. This rule enables employers and recruiters or referrers for a fee to continue to rely upon the List C documents that are stated on the current version of the Form I-9.

The Service is aware of the congressional intent expressed by section 412(a) of IIRIRA to remove the birth certificate from the statutory list of acceptable documents. The designation of birth certificates for purposes of this interim rule is an exercise of the Attorney General's regulatory authority only during this transitional period until the document reduction initiative is complete. The Service will propose removal of the birth certificate as well as certain other List C documents in a future proposed rule that will follow this interim rule. The Service will consider public comments before implementing such a change. The Service, therefore, retains the birth

certificate in this interim rule because its abrupt removal potentially would cause much confusion to the public.

### Receipts

As a result of this rule's amendments to the regulations governing List A documents, this rule must concurrently amend the regulations governing the use of receipts, § 274a.2(b)(1)(vi). This amendment is necessary to ensure that certain refugees and lawful permanent residents will be equipped to meet the employment verification requirements if they are unable to present a required document as a result of the reduction to the list of acceptable List A documents required by IIRIRA. In so doing, this amendment restructures the current rule relating to receipts.

#### 1. Current Regulations

Current regulations permit individuals to present a receipt showing that they have applied for a replacement document if the individual is unable to provide a required document or documents at the time of hire. The individual must then present the required document or documents within 90 days of the hire. This provision provides flexibility in situations where, for example, an individual has lost a document.

#### 2. Interim Rule

The interim rule provides that an employer or recruiter or referrer for a fee must accept a receipt that appears to be genuine on its face and appears to relate to the individual presenting it in lieu of the required document, unless the individual indicates or the employer or recruiter or referrer for a fee has actual or constructive knowledge that the individual is not authorized to work. It reinforces that a receipt for an application for initial work authorization or an extension of expiring work authorization is not acceptable. It also extends that receipt rule to reverification.

(1) *Three instances in which receipts are acceptable.*

(a) *Application for a replacement document.* The rule permits the use of receipts in three instances. The first instance is when the individual presents a receipt for the application for a replacement document. An application for initial work authorization or an extension of expiring work authorization, however, its not acceptable.

(b) *Form I-94 indicating temporary evidence of permanent resident status.* The second instance is when the individual presents the arrival portion of the Form I-94 that the Service has

marked with a temporary I-551 stamp and has affixed with the alien's picture. The Service may issue this document if an alien is not in possession of his or her passport and requires evidence of lawful permanent resident status. Although this document provides temporary evidence of permanent resident status, it does not contain sufficient security features. Consequently, it does not meet the statutory requirements provided by IIRIRA for inclusion on List A. This rule, therefore, extends the receipt rule to include the Form I-94 with a temporary I-551 stamp and the alien's picture. This document serves as a receipt for Form I-551 for 180 days.

(c) *Form I-94 indicating refugee status.* The third instance is when the individual presents the departure portion of Form I-94 containing a refugee admission stamp. The Service recognizes the importance of newly admitted refugees being able to seek employment promptly upon arrival in the United States. The Service has been working with the Social Security Administration (SSA) to ensure prompt issuance of social security cards which carry no employment restrictions to refugees. In most instances, the Service believes that refugees will receive social security cards timely and will be able to present them to employers. The Service also intends to give refugees the option of obtaining a Form I-766 EAD, but recognizes that in most instances refugees will be able to obtain a social security card faster. Refugees may wish to obtain the Form I-766 EAD so that they will have a Service-issued document with a photograph. In order to ensure that refugees are still able to work if they encounter delays in obtaining cards from either the SSA or the Service, the Service introduces a special receipt rule. Under this rule, a Form I-94 with a refugee admission stamp constitutes a receipt evidencing eligibility to work. It is not, however, a receipt for a specific document. The refugee is permitted to present either an unrestricted social security card or a Form I-766 EAD at the end of the 90-day receipt period. If the refugee presents a social security card, the refugee will also need to present a List B document. If the refugee presents a Form I-766 EAD, he or she does not need to present another document.

(2) *Receipts are not acceptable where the individual is hired for less than three business days.*

To correspond to this interim rule's expansion in the use of receipts, this rule amends 8 CFR 274a.2(b)(1)(iii) in which a reference to receipts is made. This paragraph of the regulations

governs the employment verification requirements in the case of an individual whose employment is less than three business days. Currently, the regulations preclude an individual hired for less than three business days from presenting a receipt for the application of a replacement document in lieu of a required document. This rule extends this prohibition to any type of receipt.

**Good Cause Exception**

This interim rule is effective on September 30, 1997, although the Service invites post-promulgation comments and will address any such comments in a final rule. For the following reasons, the Service finds that good cause exists for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553.

Pursuant to section 412(e)(1) of IIRIRA, the document reduction provisions of section 412(a) of IIRIRA are effective on September 30, 1997, unless the Attorney General designates an earlier date. If the Attorney General does not designate a date through this interim rule, the provisions will go into effect without regulations, and a gap will be left wherein certain individuals who are authorized to work will not be in possession of an acceptable document under the Act as amended by IIRIRA for employment verification purposes. In addition, the Form I-9 will not be revised at this time. The Service is concerned that mass confusion among the employment community would result over which documents currently listed in the regulations and on the Form I-9 would remain acceptable to meet the employment verification requirements. This confusion would heighten the potential for discriminatory hiring practices.

To prevent the potential for confusion of the public and discriminatory hiring practices, and to ensure that documents acceptable for employment verification are designated to correspond to all classes of individuals authorized to work in the United States, the Service is issuing this rule. In order to respond to these concerns, this rule designates additional documents as acceptable, beyond those documents specifically enumerated in the Act as revised. In the absence of this action by the Service, the changes made by IIRIRA would result in an immediate further narrowing of the list of acceptable documents. Because of the imminent effective date of the statutory changes made by IIRIRA, this rule is being made effective as of September 30, 1997, without prior comments from the public. For these reasons, the Service finds that it would

be unnecessary and contrary to the public interest to delay the effective date of this rule.

**Regulatory Flexibility Act**

The Commissioner of the Immigration and Naturalization Service, in accordance with 5 U.S.C. 605(b), has reviewed this interim rule and, by approving it, certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule is a short-term measure and very limited in scope, only modifying a small portion of the entire employment verification process. It also does not introduce new forms. As a result, this rule would not require small entities to significantly change established practices. In addition, until further notice, the Service will not penalize persons or entities that commit violations based upon the changes to the list of acceptable documents made by this rule.

**Executive Order 12866**

This rule is considered by the Department of Justice, Immigration and Naturalization service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, it has been submitted and approved by the Office of Management and Budget.

**Executive Order 12612**

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Executive order 12988 Civil Justice Reform**

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

**Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**Paperwork Reduction Act**

This interim rule does not impose any new reporting or recordkeeping requirements. The information collection requirements pertaining to the employment verification process have been approved for use by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (Pub. L. 104-13). The OMB control number for this collection is contained in 8 CFR 299.5, Display of control numbers.

**List of Subjects in 8 CFR Part 274a**

Administrative practice and procedure, aliens, employment, penalties, reporting and recordkeeping requirements.

Accordingly, part 274a of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

**PART 274a—CONTROL OF EMPLOYMENT OF ALIENS**

1. The authority citation for part 274a continues to read as follows:

**Authority:** 8 U.S.C 1101, 1103, 1324a; 8 CFR part 2.

- 2. Section 274a.2 is amended by:
  - a. Revising paragraph (b)(1)(iii);
  - b. Revising paragraph (b)(1)(v)(A); and
  - by
  - c. Revising paragraph (b)(11)(vi), to read as follows:

**§ 274a.2 Verification of employment eligibility.**

\* \* \* \* \*  
 (b) \* \* \*  
 (1) \* \* \*

(iii) An employer who hires an individual for employment for a duration of less than three business days must comply with paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) of this section at the time of the hire. An employer may not accept a receipt, as described in paragraph (b)(1)(vi) of this section, in lieu of the required

document if the employment is for less than three business days.

\* \* \* \* \*

(v) \* \* \*

(A) The following documents, so long as they appear to relate to the individual presenting the document, are acceptable to evidence both identity and employment eligibility:

(1) United States passport (unexpired or expired);

(2) Alien Registration Receipt Card or Permanent Resident Card, Form I-551;

(3) An unexpired foreign passport that contains a temporary I-551 stamp;

(4) An unexpired Employment Authorization Document issued by the Immigration And Naturalization Service which contains a photograph, Form I-766; Form I-688, Form I-688A, or Form I-688B;

(5) In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, an unexpired foreign passport with an Arrival-Departure Record, Form I-94, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, so long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the Form I-94.

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(vi) *Special rules for receipts.* Except as provided in paragraph (b)(1)(iii) of this section, unless the individual indicates or the employer or recruiter or referrer for a fee has actual or constructive knowledge that the individual is not authorized to work, an employer or recruiter or referrer for a fee must accept a receipt for the application for a replacement document or a document described in paragraphs (b)(1)(vi)(B)(I) and (b)(1)(vi)(C)(I) of this section in lieu of the required document in order to comply with any requirement to examine documentation imposed by this section, in the following circumstances:

(A) *Application for a replacement document.* The individual:

(1) Is unable to provide the required document within the time specified in this section because the document was lost, stolen, or damaged;

(2) Presents a receipt for the application for the replacement document within the time specified in this section; and

(3) Presents the replacement document within 90 days of the hire or, in the case of reverification, the date employment authorization expires; or

(B) *Form I-94 indicating temporary evidence of permanent resident status.* The individual indicates in section 1 of

the Form I-9 that he or she is a lawful permanent resident and the individual:

(1) Presents the arrival portion of Form I-94 containing an unexpired "Temporary I-551" stamp and photograph of the individual, which is designated for purposes of this section as a receipt for Form I-551; and

(2) Presents the Form I-551 within 180 days of the hire or, in the case of reverification, the date employment authorization expires; or

(C) *Form I-94 indicating refugee status.* The individual indicates in section 1 of the Form I-9 that he or she is an alien authorized to work and the individual:

(1) Presents the departure portion of Form I-94 containing an unexpired refugee admission stamp, which is designated for purposes of this section as a receipt for either the Form I-766 or a social security account number card that contains no employment restrictions; and

(2) Presents, within 90 days of the hire or, in the case of reverification, the date employment authorization expires, either an unexpired Form I-766; or a social security account number card that contains no employment restrictions together with a document described under paragraph (b)(1)(v)(B) of this section.

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Dated: September 25, 1997.

**Doris Meissner,**

*Commissioner, Immigration and Naturalization Service.*

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**FEDERAL RESERVE SYSTEM**

**12 CFR Part 213**

[Regulation M; Docket No. R-0892]

**Consumer Leading; Delay of Compliance Date**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; delay of compliance date.

**SUMMARY:** Following a review under the Board's Regulatory Planning and Review Program, the Board published a revised Regulation M, which implements the Consumer Leasing Act on October 7, 1996. The final rule contains a significant number of substantive revisions to the regulation. It essentially establishes a new disclosure scheme that should substantially improve consumer understanding of automobile

transactions. The new disclosure scheme required the preparation of new forms and the reprogramming of computer software. Mandatory compliance with the revised rule was to begin on October 1, 1997. The Board is delaying that compliance date until January 1, 1998, to facilitate compliance with the regulation and to ensure that consumers receive accurate and meaningful disclosures.

**DATES:** The mandatory compliance date for the final rule published at 61 FR 52246 (Oct. 7, 1996) is delayed until January 1, 1998.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** The Consumer Leasing Act (CLA), 15 U.S.C. 1667-1667e, was enacted into law in 1976 as an amendment to the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.* The Board was given rulewriting authority, and its Regulation M (12 CFR part 213) implements the CLA.

The CLA generally governs consumer leases of personal property involving \$25,000 or less and a term of more than four months. An automobile lease is the most common type of consumer lease covered by the CLA. Like the credit provisions of the TILA, the CLA requires lessors to provide uniform cost and other disclosures in consumer lease transactions and in lease advertising. Prior to entering into a lease agreement, lessors must give consumers fifteen to twenty disclosures, including the amount of initial charges to be paid, an identification of leased property, a payment schedule, the responsibilities for maintaining the leased property, and the liability for terminating a lease early.

Following a review under the Board's Regulatory Planning and Review Program, the Board published a revised Regulation M on October 7, 1996 (61 FR 52246), and a new staff commentary on April 4, 1997 (62 FR 16053). The final rule, which contains a significant number of substantive revisions to the regulation, essentially establishes a new disclosure scheme that should substantially improve consumer understanding of automobile lease transactions. The new disclosure scheme required the preparation of new forms and the reprogramming of computer software.