Employing Aliens: Straddling the Barbed Wire Fence[1]

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Summary

Of your employment practice, you should establish and implement a written policy and procedure for responding to no match letters and maintain records of your responses to those letters and communications with affected employees. Apply the policy consistently to all employees in order to avoid claims of discrimination.

This procedure applies if you as an employer receive from the Social Security Administration (SSA) an "Employer Correction Request" (commonly referred to as a "No-Match Letter") or notice from the Department of Homeland Security (DHLS) that the immigration status or employment-authorization documentation presented or referenced by the employee in completing Form I–9 was not assigned to the employee according to Department of Homeland Security records. Both of these will be called "No-Match Letters."

Make and identify a folder to hold all correspondence regarding No-Match Letters. Make the folder readily accessible and keep in it all correspondence between you and SSA, employees, and DHLS regarding any Immigration looms over the dairy industry like a large dark storm capable at any moment to break forth in a widespread wind and rain torrent or a more focused tornado, damaging much of the industry or destroying just a few. No matter where one looks, there is no light to be seen promising fairer weather though political forecasters predict relief will come, sometime. Dairymen, like much of American agriculture, rely upon immigrant labor despite the fact that many such workers are likely aliens unauthorized for employment in the US. American immigration and economic policy has effectively allowed and even encouraged the use of this labor. The U.S. Congress has failed to provide another clear, less risky, means to satisfy the legitimate need for labor with a workable and sufficiently sized program that provides labor to maintain economic stability and protects our national security.

The current visa programs are inadequate both in terms of numbers of available visas as well as the unworkable process. Dairy Farmers, as most are agricultural employers, depend upon a mostly Hispanic work force. Some of these employees may not be authorized to work in the United States (Undocumented Workers) but are able to obtain employment by falsely filling out Form I-9 or providing forged documents in support of their claims. An employer cannot be sure whether or not an employee is authorized while illegal to hire alien workers that are not properly documented. Current Federal law provides employers protections. Such does not protect employers from losing valuable employees as a result of government raids, arrests, and other efforts to identify and remove undocumented alien workers. In the vacuum of Federal law, states and local governments are

entering into the area of civil enforcement of immigration laws. This presentation will provide a detailed look at how an employer should comply with Federal law, explain the changes in Federal regulations, will examine the proposed Federal legislative and regulatory changes, and examine recent efforts at state regulation such as in Arizona.

Background

In dairying, the use of Hispanic laborers is widespread and generally viewed as the preferred method of staffing dairy farms. This is because of their strong work ethic, attention to details during repetitive tasks, reliability, and trustworthiness. Contrary to popular perception and media suggestions otherwise, compensation for these workers typically includes benefits, housing, and a competitive wage. The compensation package compares favorably with other jobs in the community for workers with similar skill sets.

These workers include native born American citizens, lawful and fully documented alien workers from Mexico, Guatemala, and other Latin American countries, and improperly documented workers. The distribution of these categories among all of the dairy workers is not known. Distribution at individual dairy farms is even harder to know. Speculation runs from none to all with all percentages in between. The two extremes cannot be true. It is safe to say, however, that there are significant numbers of undocumented alien workers among the work force.

Who is and who is not an authorized worker cannot be known by merely looking at the individual. At the same time, Federal law severely limits the amount of information an employer may obtain to conform to existing Federal immigration laws. From the standpoint of a dairy farmer employer who fully complies with the Federal rules, all of its workers are properly documented workers, alien or citizen. But compliance with Federal law is only part of the issue for a dairyman.

Even if the employer is in full compliance, that does not mean the employees are. Any authorized alien is subject to removal from employment, not uncommonly in raids by Immigration Control and Enforcement (**ICE**) officers. Such actions not only can unexpectedly and severely deplete the work force of a dairyman, but will also frighten those who are lawfully here. This leaves gaps in the filling of key skilled positions and the inability to fill those gaps.

Since Congress has failed to adequately address this situation, the agencies have taken harder stances on the existing law. The issue is not only being fought in the legislatures and agencies, but in the courts as well. At the time of writing, a San Francisco court continues to stay enforcement of tougher DHL S regulations on "no match" letters. Briefs are due the end of February 2009. To make things more difficult, more and more states and localities have passed bills addressed at unlawful alien workers. These, often Draconian measures, further interfere with filling skilled positions by depleting the workforce and scaring the remaining workers away.

The Law

The Constitution gives the Federal government the right to establish rules concerning immigration and naturalization.[3] Under Federal law, it is unlawful to hire an alien who is not authorized to work. On its surface, it is an easily understood law.

> It is unlawful for a person or other entity-(A) to hire, or to recruit or refer for a fee,

[3] U.S.C.A. Const. Art. I § 8, cl. 4.

> for employment in the United States an alien knowing the alien is an unauthorized alien . . . with respect to such employment,[4]

More to the status of dairy farmer employers, it is unlawful to fail in complying with Form I-9 procedures:

> It is unlawful for a person or other entity. . . if the person or entity is an, agricultural employer, . . .to hire, or to recruit or refer for a fee, for employment in the United States an individual without complying with the requirements of subsection (b) of this section.[5]

Violations of either section can be costly. Violating the paper work requirements of I-9 run from $100 to $1000 for each individual employee in which the paperwork is not in order.[6] Factors to be considered are the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, whether or not the individual was an unauthorized alien, and the history of previous violations.[7]

Criminal penalties for violation of hiring an unauthorized alien or continuing to hire one after it is known that he is not authorized are up to $3000 per unauthorized alien and up to six months imprisonment for the entire practice or pattern regardless of the number of aliens.[8] Injunctive relief can also be issued.[9] There are no criminal violations for failure to comply with the I-9 process.

Good faith compliance with Form I-9 is a defense to the prohibition to hire an unauthorized alien. The regulations for subsection (b) of the statute are embodied in rules found at 8 CFR 274a.[10] These are described in more detail later.

The result is that for employers it is the failure to comply with documentation procedures that creates liability.

Safe Harbor Provisions

[4] 8 U.S.C. A. §1324a(a)(1)(A).

[5] 8 U.S.C. A. §1324a(a)(1)(B)

[6] 8 U.S.C.A. §1324a(a)(5)

[7] 8 U.S.C.A. §1324a(a)(5)

[8] 8 U.S.C.A. §1324a(f).

[9] 8 U.S.C.A. §1324a(f)(2)

[10] 8 CFR Part 274a, CONTROL OF EMPLOYMENT OF ALIENS.

Employers who follow the procedures required for Form I-9 will find themselves protected from both civil and criminal prosecution for either violation of (1)(a), (1)(b) or (2). The steps to fit in this "safe harbor" are as follows

- Use the current Form I-9 (11-07-2007) (A copy of the current form is attached)
- Have a new employee fill out the I-9 within 3 days of hire
- Employee provides documents that identify her or him and show that she or he is eligible for employment.
- Employee fills out the Section I "Employee information and verification"
- Employee Verifies it is true by signing.
- Employer inspects and reviews the identification and eligibility documents. If they appear to be what they purport to be, employer has complied.
- The Employer completes Section II, again within 3 days of hire after Employee has completed the Section I.
- Employer keeps form. The Employer does not file with the Immigration Service.
- These documents should be kept for three years or until one year after the employee is terminated, whichever is later.

There is a controversy over whether or not to photocopy the documents presented. This is a decision which each employer must make. In making the decision, the employer must consider a number of factors. First, these documents can only be used for the I-9 and cannot be used for any other purpose including numbers and addresses for employee compensation. Second, there is no requirement that the documents be copied. Failure to copy will not subject employer to any sanction. Third, having copies of the documents cannot help or augment an employer's defense.

Making copies does have its risks. First, all employees must be treated the same. Having copies of some, but not all, employees can be the basis of an illegal discrimination claim. Second, facially the documents may not, in good faith, be what they purport to be. Having copies will provide authorities to challenge the employer's good faith. Third, having some documents, but not all, could be interpreted to mean the employer did not really have the documents in hand at any time for those it does not have copies. Fourth, the documents can be used as prosecution of the employers' employees and provide grounds for warrants and further investigation. In summary, there is neither necessity nor benefit to have copies, but plenty of risk.

The Form I-9s can be stored electronically. Whether electronically or physically, the I-9s and a list of employees should be kept in one file folder and not among all of the employees individually.

The Form I-9 is available in Spanish at the ICE website. *Only employers in Puerto Rico* can use the form. However, it may be useful to provide to employees to see what they are filling out. A copy is attached to this report to be used for explanation to would be hires.

Documents to be used.

A would be employee must provide documents that establish identity and eligibility. The Department of Homeland Security has provided three lists (List A, B, and C) of proper documents. List A includes documents that provide both identity and eligibility. These are US Passport (expired or not), Alien Registration Receipt Card or Permanent Resident Card, Form I-551, unexpired foreign

passport with temporary I-551 stamp, unexpired Employment Authorization Document issued by INS containing photograph, unexpired foreign passport with Form I-94. If a worker provides one of those documents, then all requirements of the Employee under I-9 are satisfied.

If the employee does not have a document from List A, then she must provide two documents–one from each of List B and List C. List B is an identity only document and includes drivers license or ID with photograph or with name, DOB, sex, height, color of eyes, address; a school ID with photo; a voter's registration card; US military card or draft record; military dependents ID card; U.S. Coast Guard Merchant Mariner Card; a Native American Tribal Document; or a Canadian driver's license. A driver's license issued by any governmental identity from Mexico is not valid under List B.

Employment authorization only documents (List C) include Social Security Card without "not valid for employment purposes"statement; Certification of Birth Abroad; original or certified birth certificate; Native American tribal document; US Citizens ID Card; Resident citizen ID Card; Unexpired employment authorization document by DHS.[11]

If the individual cannot provide the required documents because they were damaged, destroyed, or stolen, then the individual can still comply by providing a receipt that shows replacement documents have been requested and, within 90 days, supply the replacement document.

Minors and handicapped individuals must supply the same documents, but their application can be signed by their power of attorney, parent, or guardian.

Changes in the No Match Rules.

Department of Homeland Security has issued new regulations as to how it will interpret the constructive notice exception to the safe harbor when employers receive No-Match Letters.[12] The implementation is, as of this writing, subject to a court ordered injunction.[13]

There are cases of constructive notice which can remove the employer from the Safe Harbor provisions. These include "No-Match Letters" which inform the employer that the documents submitted are not true documents. From Social Security Administration employers may receive "Employer Correction Request"in matching annual W-2 reports with the database. Or from the Department of Homeland Security – ("Notice of Suspect Documents") which will come after an ICE audit of the employers I-9 records.

The SSA only sends letters to employers if there are multiple no matches (generally ten or more). Individual no-matches are sent to the employees at the addresses on their W-4 forms. SSA has stated that it will not send any no-match letters concerning more than one worker until the California federal lawsuit is settled. SSA will continue to send individual no-match letters to workers but will

[11]8 C.F.R. 274a.2

[12]Safe-Harbor Procedures for Employers Who Receive a No-Match Letter: Clarification; Initial Regulatory Flexibility Analysis, 73 Fed. Reg. 15944 (March 26, 2008).

Safe Harbor Procedures for Employers Who Receive a No-Match Letter: Clarification; Final Regulatory Flexibility Analysis 73 Fed. Reg. 63843 (October 28, 2008).

[13]AFL-CIO v. Chertoff *American Federation of Labor v. Chertoff,* 2007 WL 2972952 (ND Cal. 2007).

not send them to the worker's employer. No match letters from DHLS which come after an audit probably will continue.

Under the rules now on court ordered hold, if the "No Match Letter" is due to Clerical Error, within 30 days the employer should make sure that its records are correct and there is no typographical, transcription, or clerical errors. If there are they should be corrected, an amended W-4 transmitted to SSA and report the corrected numbers to SSA or DHLS as the case may be. Verification of SSA numbers can be done electronically.

If the "No Match Letter" is due to Employee Error, within 30 days verify with employee that the information employer has agrees with employee. If it does not, then correct the errors, file the amended transmittal of W-4, verify they are correct, and Report to the SSA or DHLS.

If the discrepancy is not resolved within 93 days of receipt of the letter, then the employee must file a new I-9 and the employer comply with the I-9 rules. The employee cannot use any document with the number being challenged and identification must be by photograph.

Homeland Security issued these rules intended to strengthen the obligation of employers to recheck those documents presented in support of authorization. These regulations would mandate conduct in response to the "no match" rules. In response a lawsuit was filed seeking injunctive relief against enforcement.[14] The court issued a preliminary injunction and set a date for hearing on a permanent injunction. Rather than appeal the decision, the government agreed to an extended injunction as it considers rewriting the rules and upgrading the SSA system to insure accuracy of the name and social security matches. After it filed new justification for the regulations, the government asked the stay to be lifted, but the Court did not.

E-Verify Rules

General Services Administration (GSA) and other agencies issued final regulations on the use of E-verify for contractors with the government.[15] In its original form it would have required producers who had contracts with USDA for farm programs as well as other related agreements to participate in the E-verify program. The final rule exempts almost all producers of food and agricultural products that are "commercially available off the shelf". (COTS items). Farmers who provide bulk food are exempt. It also describes coop members as subcontractors which means that they are exempt even if other activities and products of the cooperative would be. The rules were effective January 15, 2008. The rule can be found at the government website, http://origin.www.gpoaccess.gov/fr/ .

Department of Justice, Office of Special Counsel guidance for compliance with the No-Match Letters

It is unlawful to discriminate in employment based upon citizenship, immigration status, or national origin.[16] Termination of an employee because employer received a no-match letter can be

[14]Id.

[15]Federal Acquisition Regulation; FAR Case 2007–013, Employment Eligibility Verification, 73 Fed. Reg. 67651 (November 14, 2008).

[16]8 U.S.C.A. §1324b.

the basis for a violation of that law. When DHLS issued the clarified rule on safe harbor provisions, Department of Justice, Office of Special Counsel, which handles discriminatory claims filed a notice in the Federal Register. The most important provisions are:

> An employer that receives an SSA nomatch letter and terminates employees without attempting to resolve the mismatches, or who treats employees differently or otherwise acts with the purpose or intent to discriminate based upon national origin or other prohibited characteristics, may be found by OSC to have engaged in unlawful discrimination. However, if an employer follows all of the safe-harbor procedures outlined in DHS's no-match rule but cannot determine that an employee is authorized to work in the United States, and therefore terminates that employee, and if that employer applied the same procedures to all employees referenced in the no-match letter(s) uniformly and without the purpose or intent to discriminate on the basis of actual or perceived citizenship status or national origin, then OSC will not find reasonable cause to believe that the employer has violated section 1324b's antidiscrimination provision, and that employer will not be subject to suit by the United States under that provision.[17]

State enforcement of criminal and civil immigration laws

In the past states have had the ability and often aided in the enforcement of criminal laws regarding alien employment. In the absence of Federal efforts and as a rise of populism grows, more and more states are becoming involved in civil enforcement. The first of these are Arizona's "Legal Arizona Workers Act"[18] and Oklahoma's "Oklahoma Taxpayer and Citizen Protection Act of 2007"[19] These have been followed by Mississippi's Mississippi Employment Protection Act,[20]; Missouri[21], South Carolina,[22] Utah,[23] and West Virginia.[24]

Each of the state laws has their individual approaches, but all have some things in common. The Arizona and Oklahoma statutes were the models for those that followed and can be used to

[17]Civil Rights Division; Office of Special Counsel's Antidiscrimination Guidance for Employers Following the Department of Homeland Security's Safe-Harbor Procedures, 73 Fed. Reg. 63993 (October 28, 2008).

[18]Oklahoma Laws 2007, Ch. 279

[19]Oklahoma Sess. Law Serv. Ch. 112 (H.B. 1804)

[20]Laws 2008, Ch. 312, eff. July 1, 2008

[21]V.A.M.S. 285.525 to 285.550, Mo. St. 285.525, (L.2008, H.B. Nos. 1549, 1771, 1395 & 2366, § A, eff. Jan. 1, 2009).

[22]Code 1976 §41-1-30.

[23]U.C.A. 1953 §63G-11-103.

[24]W. Va. Code, §§ 21-1B-1 - 7.

understand the breadth of the regulations. Each state will have to be analyzed individually and applied to specific facts. Nevertheless, some general observations can be made. Under the Arizona statute, which took effect at the beginning of 2008, all employers are required to participate in the basic pilot program offered by Homeland Security.[25] Under this program, employers register with DHLS and enter into an agreement whereby that they will pre-screen all employees for compliance with worker authorization. In simple terms, through use of the internet, employers can enter names and social security or employment authorization numbers and have these verified in real time. With verification, the employee is authorized, otherwise not. All employees must be subject to E-verify. Complaints that the database behind the E-verify program is subject to gross error is the basis of the injunction pending against the Federal rules for "No Match Letters."

Although the Arizona act does require participation in the Federal basic pilot program, there appears to be no penalty for failure to do so. As an affirmative rebuttable presumption that an employer did not intentionally employ an unauthorized alien, an employer may raise the defense available under the Federal statute that good faith compliance with the I-9 program is an affirmative defense.[26]

In Arizona if a business is found to have intentionally hired an illegal alien, then among other things its right to continue as a business can be suspended for up to ten days. The implications of this are enormous. Anyone can report suspicions to law enforcement officers and upon receipt of such a complaint, the agency is required to investigate.[27] In substance the Arizona statute appears to have created an obligation on the state enforcement agencies to enforce civil compliance with immigration laws and, where the law has been violated, exact state punishment as well. The psychological effect may be much greater as shown by reports of businesses shutting down and aliens fleeing the state in anticipation of the law.[28] The Ninth Circuit Court of Appeals held the that (1) the act was licensing measure that fell within savings clause of Immigration Reform and Control Act's (IRCA) preemption provision; (2) the act was not impliedly preempted by IRCA; and (3) the act did not, on its face, violate employers' right to procedural due process.[29] The Missouri law has also been upheld.[30]

The Oklahoma statute goes beyond the Arizona act. In addition to employment related actions, it prohibits the transporting or harboring of aliens or "reckless disregard" of such fact. Punishment is no less than one year imprisonment and $1000 fine.[31] Because these are not "employment actions"

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[25]AZ St §23-214.

[26]AZ ST §23-212(I).

[27]AZ ST §23-212(B) & (C).

[28]Blog Entry: Arizona Illegal Alien Employment Law Having an Impact, http://bordersense.com/blog_details.asp?blogid=55 (January 7, 2008).

[29]*Chicanos Por La Causa, Inc. v. Napolitano*, 544 F. 3d 976 (9th Cir. 2008).

[30]*Gray v. City of Valley Park, Mo.*, Slip Copy, 2008 WL 294294, E.D.Mo.,January 31, 2008.

[31]OK ST T. 21 §446.

there is no "safe harbor" and an employer otherwise immune from prosecution for hiring an unauthorized alien could be guilty of transporting or harboring them if she provides transportation of any kind or housing. State agencies in Oklahoma are prohibited from providing identification cards to unauthorized aliens.[32] As relevant to dairy farmers, Oklahoma requires that employers participate in the E-Verify program beginning July 1, 2008 to verify employment.[33] The punishment is that discharge of any employee if it has employed an unauthorized alien, has been improperly discharged.[34]

Of particular concern is that Oklahoma and many of the other states have created a cause of action for dismissing a U.S. citizen or authorized alien worker if the position is filled by an authorized alien.[35] Finally, most of the state laws provide for private reporting of violations and obligations on state officials to investigate.[36] The Oklahoma statute was held invalid by a Federal District Court. That decision is currently on appeal.[37]

The impact of legislation has other, unexpected, results. Denying benefits to illegal aliens for workers compensation, education, unemployment, insurance, and health care can fall back on the employer who may have an independent or moral obligation to provide those benefits.

H-2A Visas

In the complexity of immigration law there has been a long standing provision for non immigrants to provide seasonal labor. A H-2A worker is a non immigrant worker here temporarily or for seasonal work fully intending to return to the native country. The moniker, "H-2A", comes from the portion of the code, 7 U.S.C.A. 1101(a)(15)*(H)(ii)(a)* which provides visas for a limited number of persons

> (a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of Title 26, agriculture as defined in section 203(f) of Title 29, and the pressing of apples for cider on a farm, of a temporary or seasonal nature.[38]

Recently, under attack for the complexity of the regulation, the Department of Labor issued no

[32]OK ST T. 21 §1550.42.

[33]OK ST. T. 21 §1313.

[34]Id.

[35]*See, e.g.,* U.C.A. 1953 §63G (Utah).

[36]*See, e.g.,* V.A.M.S. 285.525 to 285.550 (Missouri).

[37]*Chamber of Commerce of the United States of America v. W. A. Drew Edmondson,* Tenth Cir. Case No. 08-6127.

[38]7 U.S.C.A. 1101(a)(15)*(H)(ii)(a)*

regulations regarding H-2A visas.[39] NMPF and other dairy interests proposed allowing a definition of "temporary" that was consistent with the needs of dairy farmers whose "season" is year long. They modeled the proposal after a similar provision for sheepherders. DOL recognized the request but denied it saying it was not legislatively provided. It is questionable whether the law which provides for "temporary or a seasonal nature" can cover periods of at least a year which is necessary for dairy producers. Legislation will be required.

Forthcoming Legislation

In the midst of this stalemate, Congress will be forced to address the issue. The E-verify program is up for renewal in March 2009 and its extension could come with some relief. The reality is that Congress needs to hear from you and what you need to maintain economic vitality today.

It is expected that the agency will continue to find ways to reduce the availability of the safe harbor now used by employers. In addition to the "no Match" letters, HLS has indicated it will continue to find ways to find that current practices constitute "recklessness" and thus void the safe harbor. The San Francisco court's decision will give some clarity there.

The government did issue new H2A visa regulations, but the program needs overhauled or another one to meet the needs of dairy farmers.

As the government succeeds in making the SSA name and number matching program effective, employers on a national level will be required to use E-verify. Under e-verify employers are required to verify either the social security number of the work authorization number *before* employment. At the same time the "No-match" rules will be fully implemented regarding existing employees.

The states will continue to expand their role in enforcing immigration laws, not only criminally, but civilly.

What's a dairyman to do?

These present challenging times. There are no clear answers. Faced with a need for labor on one hand, a system that does not assure authorized workers on the other, and prohibited from denying employment based on immigrant status, there are a lot of risks. DHLS has identified three characteristics of companies that it raids.[40] One of those three, national security and transportation infrastructure, does not apply to the dairy. The other two might. First, if the company appears to use as its business model the use of immigrant labor, it comes in the target range. That is why there have been high profile raids on meat packing and processing plants that bus in hundreds of labors the vast majority of which are immigrants. The second is that the company participates in the supplying of false documents.

This second one should not even be on the radar of a diary farm. Look carefully over how you hire employees. Do you or any of your employees provide information directly or indirectly to assist immigrants in getting documents. The clearly illegal act would be actually furnishing documents.

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[39]Changes to Requirements Affecting H–2A Nonimmigrants, 73 Fed. Reg. 76981 (December 18, 2008).

[40]" Myth vs. Fact: Worksite Enforcement", Leadership Journal, Department of Homeland Security, July 11, 2008, p. 3. http://www.dhs.gov/journal/leadership/labels/E-Verify.html

Don't! Make absolutely sure no supervisor, manager or other officer has any such documents. There is no rationale for someone holding identification records outside of the ordinary course of business. It is one reason some recommend no copies of documents supplied for I-9 application. You do not have to have documents to be liable. Even referring applicants to places or individuals that you think my supply them could be enough. If any of this has occurred on your farm, contact an attorney right now for advice on how to handle that fact. In some of the raids is that top management has taken a "blind eye" to subordinates doing just these things. If you have good reason to know that one of your workers submitted false documents, terminate the employment.

Addressing, the primary reason a dairyman might be targeted, the model calls for immigrant labor, there are things a dairyman can do to minimize the exposure. These are all important.

- Keep your mouth shut about who your employees are and where you think they came from. It is no one else's business and what you say can be repeated, restated, and reported in a way that can harm you and your business.
- Screen employees with an eye to whether or not they are potential troublemakers. Where have they worked before? Why are they not working there now? Check them out.
- If you have concrete evidence that contradicts an applicant's statements that they are authorized to work in the US, note the information you had in your records and do not hire the person.
- Avoid dealing with companies that advertise they can supply immigrant workers with proper documents. At least investigate fully before signing on. Such brokers are under a great deal of scrutiny and even if you acquired a properly documented worker, you still might be investigated because of the broker.
- Take all "no match letters" seriously and timely and properly respond to each and everyone of them.
- Post all vacancies with the local employment or state jobs office.
- Support your local sheriff. Keep an open line of communication with law enforcement. Introduce them to the management team. Make it clear to them that you will not tolerate illegal activity by your employees and support your word with action if it is reported.
- Avoid publicity and absolutely prohibit anyone from advertising, broadcasting, or filming any of your workers. Signs prohibiting photography should be posted in and about the barns and corrals.
- Work with the schools where workers attend. Assist in tutoring and other activities. Make sure workers know that there has to be no tolerance for violence anywhere.
- Instruct employees to be careful what they do on and off of the farm. Do not speed, do not drive without a license, do not get into fights.
- Instruct employees to avoid actions that draw attention to them, particularly in unfriendly ways.
- Find and retain an attorney in immigration now, introduce her or him to your

management team now, not when you need an attorney. Keep the attorney up to date on what is happening and give a "heads up" if you have concerns something might happen. It could be too late to find one when things happen.

Even with all of that a raid is possible. So, have an action plan in place should one happen. Go over things that need done the first ten minutes, the first hour, the first milking, the first day. What would have to be done? What could be delayed? Who could do it? All of these are questions that need to be considered and answered now. Put the plan in writing. Go over the plan with others in your operation. The day this happens may be the day you are in the plane to Hawaii. Practice it.

Join with other dairymen and create an emergency milking team in the case of any disaster that impacts the milking team (such as a tragic loss of several employees by a car accident or a raid). More than having an agreement, actually have the teams practice occasional milking in the other farms.

Establish, test and practice different means of communicating with everyone on the farm in the event of a raid.

Conclusion

Dairymen continue to need good, skilled labor. A major source of that quality labor is immigrant. Hiring immigrant labor brings conflicting risks. Congress has still failed to address the issue. Pressures from state legislatures and agencies makes the task even more daunting. As dairymen, dealing with the vagarities of weather, disease, death, and other natural disasters prepares us for these risks. Knowing what the risks are, avoiding those that can be avoided, limiting those that can be limited, and keeping an eye on the rest provides the best protection at this time.

APPENDIX A

USEFUL WEBSITES

A. **Government Websites**

U S Custom and Immigration Services, http://www.uscis.gov/portal/site/uscis

U.S. Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices. http://www.usdoj.gov/crt/osc/

B. **Immigration Discussion sites**

New York Times, Times Topics, Immigration and Refugees
http://topics.nytimes.com/topics/reference/timestopics/subjects/i/immigration_and_refugees/index.html

C. **Websites with helpful information for employers of immigrants**

Social Security Administration "No-Match" Letter Toolkit (3rd Edition)

http://www.nilc.org/immsemplymnt/SSA-NM_Toolkit/index.htm

D. **Laws and Regulations**

Safe-Harbor Procedures for Employers Who Receive a No-Match Letter: Clarification; Initial Regulatory Flexibility Analysis, 73 Fed. Reg. 15944 (March 26, 2008). "Federal Register: Simple Search" http://www.gpoaccess.gov/fr/search.html , Select Volume 73 and in the Search enter "page 15944" including the quotes.

Safe Harbor Procedures for Employers Who Receive a No-Match Letter: Clarification; Final Regulatory Flexibility Analysis 73 Fed. Reg. 63843 (October 28, 2008). "Federal Register: Simple Search" http://www.gpoaccess.gov/fr/search.html , Select Volume 73 and in the Search enter "page 63843" including the quotes.

Civil Rights Division; Office of Special Counsel's Antidiscrimination Guidance for Employers Following the Department of Homeland Security's Safe-Harbor Procedures, 73 Fed. Reg. 63993 (October 28, 2008). "Federal Register: Simple Search" http://www.gpoaccess.gov/fr/search.html , Select Volume 73 and in the Search enter "page 63993" including the quotes.

Regulations regarding employment of aliens: Title 8--Aliens and Nationality Chapter I--department of Homeland Security Part 274a--control of Employment of Aliens can be found at the GPOACCESS website, http://www.access.gpo.gov/nara/cfr/waisidx_08/8cfr274a_08.html

The law regarding Unlawful Employment of Aliens: 8 U.S.C. 1324a

Go to the United States Code: Main Page, http://www.gpoaccess.gov/uscode/index.html In search type 8usc1324a, no spaces.

You may contact me ben@yalelawoffice.com

APPENDIX B

SUGGESTED STEPS TO FOLLOW IF YOU RECEIVE A SOCIAL SECURITY "EMPLOYER CORRECTION REQUEST" OR "NO-MATCH LETTER"

Department of Homeland Security has issued regulations regarding how to handle "no-match" letters and maintain the protection of the "safe harbor" under the law. The regulations found at 8 C.F.R.274a and the explanation of why the no match provisions are written the way they are is found at Safe-Harbor Procedures for Employers Who Receive a No-Match Letter: Clarification; Initial Regulatory Flexibility Analysis, 73 Fed. Reg. 15944 (March 26, 2008) and Safe Harbor Procedures for Employers Who Receive a No-Match Letter: Clarification; Final Regulatory Flexibility Analysis 73 Fed. Reg. 63843 (October 28, 2008). They are currently subject to a court injunction. That may or may not be lifted. Assuming they do take affect, the following addresses ways in which to handle receipt of no-match letters. These are suggestions, you should have on your "team" a lawyer who understands immigration issues and advises you on practice and procedure.

1.As part and all mismatches. Also make notes of all phone calls, conversations, emails, and other communications with anyone regarding the No-Match Letters. These notes should include no less than the date, approximate time, those present, nature of the conversation, and any promises made. Keep the folder in a safe and secure location.

2. Establish a notification procedure within the office as to which managers or owners are to be notified of the receipt any No-Match Letters. Make sure that any such letter is made available immediately to you. In addition, to insure that there is no breakdown in the system due to other demands on your time, make sure the letter is immediately copied to your accountant, bookkeeper, attorney, or other professional members of your team. These letters should be made priority.

3. In a calendar you rely upon for appointments and deadlines, note the date the letter was received and ninety (90) days later to as deadline to reverify employment.

4. Promptly compare the employee's SSN (you should have a photocopy of the Social Security card in the employee file) with the numbers in the W-4 form submitted to make sure that the No-Match Letter was not the result of a typographical, transcription, or other similar clerical error. If the W-4 ***is in error***, then

a.Correct the W-4 form and file it with the IRS according to instructions.

b.Verify with either the DHS or SSA that the corrections match agency records.

c.SEPARATELY, report the correction to the SSA at the address provided for response in the mismatch letter.

d.Maintain copies of ALL correspondence submitting and verifying corrected information.

5. If the number on the W-4 form ***agrees with the Social Security number*** provided by the employee,

a.Check the spelling of the name. Computers compare names with SSN, not people. They do not equate Bill with William nor do they know that "Chip" is Charles. Also changes in surnames due to marriage, adoption, or divorce may not be reflected in SSA files.

b.Notify the employee immediately, both orally (note it in the file) and in writing that the

SSA has notified you that the number he or she reported does not match the SSA records.

c.Have the employee verify that the information held by the employer is correct. If the information held by the employer is not correct according to the employee records, correct the information in accordance with paragraph.

d.If the employee cannot show that your information is incorrect, then notify the employee that it is his or her responsibility to resolve the dispute with the SSA, not yours.

e.Tell the employee to report immediately to you any response by the SSA.

f.If corrected information is received change your records as per paragraph.

g.REMEMBER: Keep a copy of the letter to the employee and write notes regarding any communication for your records.

6. If the discrepancy is still not resolved. The employer should verify the employee's identity and work authorization as if a new hire. That means filling out a new I-9 Employment Eligibility Verification Form *as if a new hire.*

a. Must be completed within 93 days of receipt of the No-Match Letter

b.No document containing the SSN or Alien Number subject to the discrepancy can be used nor a receipt for an application for a replacement of such a document.

c.No document without a photograph can be used to establish identity.

7. Continue to deduct and pay taxes as you would otherwise do. A No-Match Letter is not notice to stop payroll taxes.

8. If the employee returns with information that could indicate a lack of work authorization (i.e., a new name and/or SSN), then you may need to follow up further to avoid having "constructive knowledge" of the lack of authorization. If a person comes up with an entirely new identity, then the employer must demand an explanation. If the explanation is reasonable, then the employer can accept it and should re-verify the I-9. One such explanation is that the person has gone by one name his or her life, but it does not match the birth certificate of SS records because they did not formally have their name changed.

9. If the employee does not return with corrected information, do not automatically fire the employee or re-verify their authorization to work in the United States. At the end of the year and prior to filing W-4s, remind the employee in writing that you requested him or her to resolve the dispute with the SSA and request an update as to those efforts.

10. Do not accept any document with the challenged SSN until the mismatch is resolved with the SSA.

11. Inform in writing, the SSA all the steps you took to resolve the SSN conflict for each affected employee, including those you no longer employ. Put a copy of this letter in the folder.

Never assume an employee with a reported mismatch is an undocumented alien.

Never fire an employee solely because you received notice of a mismatch.

Never ignore information and common sense when reviewing new information in response to mismatches.

Immigration law prohibits employers from continuing to employ workers that they know to be

undocumented. The employee must be terminated immediately. To do otherwise places the employer at risk of being in violation of the law.

An employer that receives an SSA nomatch letter and terminates employees without attempting to resolve the mismatches, or who treats employees differently or otherwise acts with the purpose or intent to discriminate based upon national origin or other prohibited characteristics, may be found by OSC to have engaged in unlawful discrimination. However, if an employer follows all of the safe-harbor procedures outlined in DHS's no-match rule but cannot determine that an employee is authorized to work in the United States, and therefore terminates that employee, and if that employer applied the same procedures to all employees referenced in the no-match letter(s) uniformly and without the purpose or intent to discriminate on the basis of actual or perceived citizenship status or national origin, then OSC will not find reasonable cause to believe that the employer has violated section 1324b's antidiscrimination provision, and that employer will not be subject to suit by the United States under that provision.

OMB No. 1615-0047; Expires 06/30/09

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form I-9, Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Maiden Name
Address *(Street Name and Number)*		Apt. #	Date of Birth *(month/day/year)*
City	State	Zip Code	Social Security #

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

- ☐ A citizen or national of the United States
- ☐ A lawful permanent resident (Alien #) A _____
- ☐ An alien authorized to work until _____

(Alien # or Admission #) _____

Employee's Signature	Date *(month/day/year)*

Preparer and/or Translator Certification. *(To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.*

Preparer's/Translator's Signature	Print Name
Address *(Street Name and Number, City, State, Zip Code)*	Date *(month/day/year)*

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).

	List A	OR	List B	AND	List C
Document title:					
Issuing authority:					
Document #:					
Expiration Date *(if any)*:					
Document #:					
Expiration Date *(if any)*:					

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on *(month/day/year)* _____ **and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)**

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address *(Street Name and Number, City, State, Zip Code)*		Date *(month/day/year)*

Section 3. Updating and Reverification. To be completed and signed by employer.

A. New Name *(if applicable)*	B. Date of Rehire *(month/day/year) (if applicable)*

C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.

Document Title: _____ Document #: _____ Expiration Date (if any): _____

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Date *(month/day/year)*

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LISTS OF ACCEPTABLE DOCUMENTS

LIST A **Documents that Establish Both Identity and Employment Eligibility**	OR	LIST B **Documents that Establish Identity**	AND	LIST C **Documents that Establish Employment Eligibility**
1. U.S. Passport (unexpired or expired)		**1.** Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		**1.** U.S. Social Security card issued by the Social Security Administration *(other than a card stating it is not valid for employment)*
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		**2.** ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		**2.** Certification of Birth Abroad issued by the Department of State *(Form FS-545 or Form DS-1350)*
3. An unexpired foreign passport with a temporary I-551 stamp		**3.** School ID card with a photograph		**3.** 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. An unexpired Employment Authorization Document that contains a photograph (Form I-766, I-688, I-688A, I-688B)		**4.** Voter's registration card		**4.** Native American tribal document
		5. U.S. Military card or draft record		**5.** U.S. Citizen ID Card *(Form I-197)*
5. An unexpired foreign passport with an unexpired Arrival-Departure Record, Form I-94, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for the employer		**6.** Military dependent's ID card		**6.** ID Card for use of Resident Citizen in the United States *(Form I-179)*
		7. U.S. Coast Guard Merchant Mariner Card		
		8. Native American tribal document		**7.** Unexpired employment authorization document issued by DHS *(other than those listed under List A)*
		9. Driver's license issued by a Canadian government authority		
		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor or hospital record		
		12. Day-care or nursery school record		

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)

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OMB No. 1615-0047; Expires 06/30/09

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form I-9, Employment Eligibility Verification

Instrucciones

Lea cuidadosamente las instrucciones antes de llenar este formulario. (Para uso únicamente en Puerto Rico.)

Notificación Anti-Discriminación. Es ilegal discriminar a cualquier individuo (con excepción de un extranjero no autorizado a trabajar en los E.U.A.) al contratar, desemplear, reclutar o contratar por honorarios debido al origen del individuo o su ciudadanía. Es ilegal discriminar a cualquier individuo elegible para trabajar. Los empleadores **NO PUEDEN** especificar que documento(s) aceptarán de un empleado. El negarse a emplear a un individuo porque la fecha de vencimiento de los documentos presentados está cercana puede también constituirse como una discriminación ilegal.

¿Cuál es el propósito de este formulario?

El propósito de este formulario es documentar que cada empleado nuevo (ciudadano o no ciudadano) contratado después del 6 de noviembre de 1986 está autorizado a trabajar en los Estados Unidos.

¿Cuándo debe ser utilizado el Formulario I-9?

Todos los empleados, ciudadanos y no ciudadanos, contratados después del 6 de noviembre de 1986 y que estén trabajando en los Estados Unidos deben llenar el Formulario I-9.

Como Llenar el Formulario I-9

Sección 1, Empleado: Esta parte del formulario debe llenarse en el momento de la contratación, que generalmente es el inicio del empleo. Proveer el número de Seguro Social es voluntario, a excepción de aquellos empleados que han sido contratados por empleadores que participan en el Programa Electrónico de Verificación de la Elegibilidad de Empleo de USCIS. **El empleador debe asegurarse que la Sección 1 se llene puntual y correctamente.**

Certificación del Traductor o Tercero. La certificación del traductor o tercero debe llenarse si la **Sección 1** es preparada por cualquier persona que no sea el empleado. Un traductor o tercero sólo puede utilizarse cuando el empleado no pueda llenar la **Sección 1** por sí mismo. Sin embargo, el empleado debe firmar la **Sección 1** personalmente.

Sección 2, Empleador: Con la finalidad de llenar este formulario, el término "empleador" se refiere a todos los empleadores incluyendo los reclutadores y los contratistas por honorarios tales como las asociaciones agrícolas, empleadores agrícolas o los contratistas de trabajo agrícola.

Los empleadores deben llenar la **Sección 2** examinando las pruebas de identidad y elegibilidad de empleo dentro de los tres (3) dias hábiles a partir de la fecha del inicio de empleo. Si el empleado está autorizado para trabajar, pero no puede presentar los documentos requeridos dentro de los tres (3) días hábiles, debe presentar un recibo de esta solicitud dentro de tres (3) días hábiles, y los documentos requeridos en un periodo de noventa (90) días. Sin embargo, si los empleadores contratan a individuos para trabajar por menos de 3 días hábiles, debe llenarse la **Sección 2** en el momento en el que se inicie el empleo. **Los empleadores deben anotar:**

1. Título del documento.
2. Autoridad que expide el documento.
3. Número de documento.
4. Fecha de vencimiento, si la hay; y
5. Fecha de comienzo del empleo.

El empleador debe firmar y colocar la fecha de la certificación. El empleado debe presentar sus documentos originales. El empleador puede, aunque no está obligado, a fotocopiar los documentos presentados. La(s) fotocopia(s) sólo puede(n) utilizarse para la verificación del proceso y deben guardarse con el Formulario I-9. **Sin embargo, los empleadores son los responsables de llenar y guardar el Formulario I-9.**

Sección 3, Actualización y nueva verificación: Los empleadores deben llenar la **Sección 3** cuando se esté actualizando y, o verificando el Formulario I-9. Los empleadores deben verificar de nuevo la elegibilidad de empleo de los empleados para trabajar antes de la fecha de vencimiento anotada en la **Sección 1**. Los empleadores **NO PUEDEN** especificar que documento(s) aceptarán del empleado:

A. Si el nombre de un empleado ha cambiado en el momento en que este formulario está siendo actualizado o que se realiza la nueva verificación, llene la casilla A.

B. Si un empleado es contratado nuevamente dentro de tres (3) años de la fecha original del formulario, asimismo el empleado sigue siendo elegible para ser contratado bajo las mismas condiciones previamente señaladas en este formulario (actualización), llene la casilla B y la casilla de la firma.

C. Si un empleado es contratado nuevamente dentro de tres (3) años de la fecha original de este formulario y la autorización del empleador ha expirado **o** si la autorización del empleador actual está por vencer (actualización), llene la casilla B y:

1. Compruebe que cualquier documento que refleje que el empleado está autorizado para trabajar en los E.U.A. (Ver lista A o C);
2. Anote el título del documento, número del documento y la fecha de vencimiento (si la hay) en la casilla C, y
3. Llene la casilla de la firma.

Form I-9 (Rev. 06/05/07) N (For use in Puerto Rico only)

¿Cuál es el cargo por tramitación?

No hay ningún cargo por concepto de tramitación del Formulario I-9. Este formulario no es tramitado por la USCIS o por ninguna otra agencia del gobierno. El empleador debe guardar el Formulario I-9 y tenerlo disponible para que pueda ser inspeccionado por funcionarios del gobierno de los E.U.A., como especifica el Aviso de la Ley de Privacidad más adelante.

Formularios e Información de USCIS

Para encargar formularios, por favor llame al **1-800-870- 3676**. Si desea conseguir información sobre los formularios de USCIS o sobre las leyes inmigratorias, procedimientos y normas de inmigración, llame a nuestro Centro de Servicio Nacional al Cliente al **1-800-375-5283** o visite nuestra página web: **www.uscis.gov.**

Fotocopia y Conservación del Formulario I-9

Una copia en blanco del Formulario I-9 puede ser reproducida, siempre y cuando ambos lados sean copiados. Las instrucciones deben estar disponibles a todo empleado que llene este formulario. Los empleadores deben conservar los formularios I-9 completos por tres (3) años después de la fecha inicial de empleo o un año después de la fecha en que el empleo termine, lo que sea más tarde.

El Formulario I-9 puede ser firmado y guardado electrónicamente, según lo autorizado en la reglamentación 8 CFR § 274a.2 del Departamento de Seguridad Nacional.

Aviso de la Ley de Privacidad

La autoridad que recopila esta información es la Ley de Reforma y Control de Inmigración de1986, Pub. L. 99-603 (8 USC 1324a).

Esta información es para que los empleadores verifiquen la elegibilidad de los individuos a contratar para evitar contrataciones ilícitas, reclutamientos o contratados por honorarios, de extranjeros no autorizados a trabajar en los Estados Unidos.

Esta información será usada por los empleadores como base de su registro para determinar la elegibilidad de un empleado para trabajar en los Estados Unidos. El formulario será guardado por el empleador y se hará disponible para la inspección de oficiales del Departamento de Inmigración y Aduanas de los E.U.A., el Departamento de Trabajo y la Oficina del Consejo para Inmigración y Prácticas de Empleo Injustas.

La aportación de la información requerida en este formulario es voluntaria. Sin embargo, un individuo no puede empezar su empleo sin antes llenar este formulario, ya que el empleador está sujeto a sanciones civiles o criminales si no cumple con la Ley de Control y Reforma de Inmigración de 1986.

Ley de Reducción de Trámites

Intentamos crear formularios e instrucciones que sean precisos, fáciles de entender y que le impongan la menor carga posible cuando nos provee información. A menudo esto es difícil porque algunas leyes de inmigración son muy complejas. Por consiguiente, la carga de trámites para la recopilación de información es calculada de la siguiente manera: 1) informarse acerca de este formulario y como llenar el formulario 10 minutos; 2) juntar y archivar (registros) el formulario, 2 minutos, lo cual da un promedio de 15 minutos por respuesta. Si usted tiene algún comentario acerca de precisión de esta estimación o sugerencias para hacer este formulario más simple, puede escribir a: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529. OMB No. 1615-0047.

OMB No. 1615-0047; Expires 06/30/09

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form I-9, Employment Eligibility Verification

Por favor, lea cuidadosamente las instrucciones antes de llenar este formulario. Las instrucciones deben estar disponibles cuando se llene este documento.

AVISO ANTI-DISCRIMINACIÓN: Es ilegal discriminar a cualquier individuo elegible para trabajar. Los empleadores NO PUEDEN especificar qué documento(s) aceptarán de un empleado. La negativa a emplear a una persona debido a una fecha futura de vencimiento de los documentos presentados puede constituir discriminación ilegal.

Sección 1. Información y Verificación del Empleado. El formulario deber ser llenado y firmado por el empleado en el momento en el que comience a trabajar.

Nombre en Letras de Imprenta: Apellido	Nombre	Inicial del Segundo Nombre	Nombre de Soltero(a)
Dirección *(nombre y número de la calle)*		Nº de Apto.	Fecha de nacimiento *(mes/día/año)*
Ciudad	Estado	Código Postal	Nº de Seguro Social

Estoy informado que la ley Federal estipula el encarcelamiento y/o la sanción por declaraciones falsas o por el uso de documentos falsos al llenar este formulario.

Certifico, bajo pena de perjurio, que soy (marque uno de los siguientes):
- ☐ Ciudadano o natural de los Estados Unidos
- ☐ Residente legal permanente (Nº de Extranjero) A _____
- ☐ Extranjero autorizado a trabajar hasta el _____ (Nº de Extranjero o Nº de Admisión) _____

Firma del empleado	Fecha *(mes/día/año)*

Certificación del traductor y, o tercero. *(Se debe llenar y firmar si la Sección 1 la llena cualquier persona que no sea el empleado.) Certifico, bajo pena de perjurio, que he ayudado a llenar este formulario y que según mi entender, la información es verdadera y correcta.*

Firma del Traductor o Tercero	Nombre y Apellido *(en imprenta)*
Dirección: *(Nombre y Número de la Calle, Ciudad, Estado, Código Postal)*	Fecha *(mes/día/año)*

Sección 2. Revisión y Verificación del Empleador. Se debe llenar y firmar por el empleador. Verifique un documento de la lista A o un documento de la lista B y uno de la lista C, tal y como figura en la parte posterior de esta página, y anote el título, número y fecha de vencimiento, si hay alguna, del documento.

	Lista A	**O**	**Lista B**	**Y**	**Lista C**
Título del Documento:					
Autoridad que Emite el Documento:					
Nº de Documento:					
Fecha de Vencimiento *(si la hay)*:					
Nº de Documento:					
Fecha de Vencimiento *(de ser el caso)*:					

Certificación - Certifico, bajo pena de perjurio, que he verificado los documentos presentados por el empleado nombrado anteriormente; los documentos en la lista anterior aparentan ser genuinos y son referentes al empleado nombrado. La persona antes mencionada fue empleada *(mes/día/año)* _____ **y a mi mejor entender declaro que el empleado es elegible para trabajar en los E.U.A. (Las agencias de empleo del estado pueden omitir la fecha en la que el empleado fue contratado.)**

Firma del Empleado o el Representante Autorizado	Nombre y Apellido *(en letra de imprenta)*	Título
Nombre y Dirección de la Organización o Compañía *(Nombre y Número de la Calle, Ciudad, Estado, Código Postal)*		Fecha *(mes/día/año)*

Sección 3. Actualización y Nueva Verificación. Se debe llenar y firmar por el empleador.

A. Nombre *(de ser el caso)*	B. Fecha de re-contratación *(mes/día/año) (de ser el caso)*

C. Si la autorización de trabajo previa de su empleador ha expirado, proporcione la información actual en la que indique la elegibilidad actual para trabajar.

Título de Documento: _____ Nº de Documento: _____ Fecha de Vencimiento *(si la hay)*: _____

Certifico, bajo pena de perjurio, con mi mejor conocimiento que este empleado se encuentra apto(a) para trabajar en los E.U.A. En caso de que el empleado haya presentado documentos, los documentos que he revisado aparentan ser genuinos y referentes al empleado.

Firma del Empleado o Representante Autorizado	Fecha *(mes/día/año)*

LISTAS DE DOCUMENTOS ACEPTABLES

LISTA A **Documentos que Establecen Ambas la Identidad y Eligibilidad Para Trabajar**	O	LISTA B **Documentos que Establecen la Identidad**	Y	LISTA C **Documentos que Establecen la Elegibilidad para el Empleo**
1. Pasaporte Estadounidense (vigente o vencido)		**1.** Licencia de conducir o Tarjeta de Identificación (ID) emitida por el estado o territorio de los Estados Unidos si contienen fotografía o el nombre, fecha de nacimiento, género, altura, color de ojos y dirección		**1.** Tarjeta de Seguro Social de los Estados Unidos emitida por la Administración de Seguro Social (con excepción de una tarjeta que indique que no se encuentra apto(a) para trabajar)
2. Tarjeta de Residencia Permanente o Tarjeta de Registro de Extranjeros (Formulario I-551)		**2.** Tarjeta de Identificación (ID) emitida por agencias o entidades del gobierno federal, estatal o local o si contiene una fotografía o información tal como el nombre, fecha de nacimiento, sexo, estatura, color de ojos y dirección		**2.** Partida de nacimiento en el extranjero emitida por el Departamento de Estado (Formulario FS-545 o Formulario DS-1350)
3. Pasaporte extranjero vigente con un timbre temporal I-551		**3.** Identificación estudiantil con fotografía		**3.** Una copia original o certificada de la partida de nacimiento emitida por el estado, condado, autoridad municipal o territorio de los Estados Unidos con sello oficial
4. Tarjeta de Autorización de Empleo vigente con fotografía (Formulario I-766, I-688, I-688A, I-688B)		**4.** Tarjeta de registro de votante		**4.** Documento tribal de Nativo-Americano
		5. Tarjeta Militar de los Estados Unidos o tarjeta del servicio militar		**5.** Tarjeta de Identificación de Ciudadano(a) Estadounidense (Formulario I-197)
5. Pasaporte extranjero vigente con Registro de Entrada y Salida Vigente, Formulario I-94, llevando el mismo nombre que figura en el pasaporte y conteniendo una certificación del estado no inmigrante del extranjero, si ese estado autoriza a el extranjero a trabajar para el empleador		**6.** Tarjeta Militar de Identificacion de dependientes		**6.** Tarjeta emitida para el uso de Ciudadano Residente en los Estados Unidos (Formulario I-179)
		7. Tarjeta de Marino Mercante de la Guardia Costera Estadounidense		
		8. Documento tribal de Nativo-Americano		**7.** Autorización de Empleo vigente emitida por DHS (que no sea una de las de la lista A)
		9. Licencia de condicir emitida por el gobierno canadiense		
		Para personas menores de 18 años de edad que no puedan presentar los documentos en la lista anterior:		
		10. Expediente académico o tarjeta de calificaciones		
		11. Informe médico, de clínica u hospital		
		12. Registro de guadería		

En la parte 8 del Manual para Empleadores (M-274) encontrará ejemplos de muchos de estos documentos.