

AgWorks

Agricultural Workforce Services and Training



Pennsylvania

**Department of
Labor & Industry**

This project is funded 100% with federal funds from a US Department of Labor grant totaling \$1,325,699.00 and 0% (\$0.00) non-federal funds. Auxiliary aids and services are available upon request to individuals with disabilities. Equal Opportunity Employer/Program.

AgWorks: Legal Authority to Work and Pre-Employment Screening (AL2)

Part of a webinar series on employment and labor law topics
specifically for agricultural employers

October 28, 2025



PennState Extension



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**Center for Agricultural
and Shale Law**

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DEPARTMENT OF LABOR & INDUSTRY



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and Shale Law**

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CENTER MISSION AND BACKGROUND

The Center for Agricultural and Shale Law conducts research and educational programs to serve a wide variety of stakeholders including agricultural producers, landowners, mineral interest and royalty owners, business professionals, judges, attorneys, legislators, government officials, community groups, and the general public. Center programs are funded in part by the Commonwealth of Pennsylvania through the Pennsylvania Department of Agriculture. The Center for Agricultural and Shale Law is a partner of the National Agricultural Law Center (NALC) at the University of Arkansas System Division of Agriculture, which serves as the nation's leading source of agricultural and food law research and information.

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Welcome to the Center for Agricultural and Shale Law

Agricultural Law Weekly Review

[SEE ALL AGRICULTURAL LAW WEEKLY REVIEWS »](#)

Agricultural Law Weekly Review—April 29, 2025

Next Week: May 9, 2025, Understanding the Basics of PA Ag Exemptions for Inheritance Tax and Other Real Estate Transfers (rescheduled) Dairy Policy: USDA Issues Final Rule to Reauthorize Dairy Forward Pricing Program 🌾 On April 23, 2025, the U.S. Department of Agriculture (USDA) Agricultural Marketing Service (AMS) published in the Federal Register a final rule (90 FR 16997), effective April 24, 2025, reauthorizing the Dairy Forward Pricing Program, which “allows farmers to voluntarily enter into forward price contracts with handlers for pooled milk used for Class II, III, or IV purposes under the Federal Milk Marketing Orders . . . [.]”



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UPCOMING!!!



Friday, October 31, 2025, 12pm ET via Zoom.

Immigration Compliance: I-9s, I-9 Audits and ICE Raids

Guest Presenter: Jacob Monty, Esq., Monty & Ramirez LLP, Houston TX



MONTY & RAMIREZ LLP
ATTORNEYS AT LAW
EMPLOYMENT | LABOR | IMMIGRATION

Increased immigration enforcement under the current administration has become a topic of concern for agricultural employers as recent enforcement activities have begun to target farms, production plants, and meatpacking facilities. This special guest presentation will provide updates on immigration policy, including new guidance effective September 2025 on work visa interview waivers and the expiration of Temporary Protected Status (TPS), and practical guidance for employers, including I-9 form verification and employer rights in the event of workplace investigative enforcement or “ICE Raid.”

https://psu.zoom.us/webinar/register/5717585577909/WN_DA0JZ_5_TiKJxIVLZ_smLw#/registration



AgWorks Webinar Series *presented by Penn State Ag Law Center*

- Employment/labor law webinar series exclusively for agricultural/farm/food employers.
- 24 monthly webinars on employment law presented from Sept. 2025 – Aug. 2027.
- *Caveat:* Many employment laws/regulations have special rules/exceptions/exemptions for “agriculture” and “farming” (which do not apply to food production or manufacturing).
- For more info, see Penn State Extension’s **AgWorks** [Homepage](#) – Programming is much more than this employment law webinar series.
- **AgWorks** [Calendar of Events](#)
 - 4 subtopics of programming:
 1. **HR** - Hiring, Retention, Human Resources
 2. **AL** - Laws & Regulations
 3. **BC** - Business & Compensation
 4. **HS** - Health & Safety



Review/Recap

- 9/30/25 Webinar: [Legal Foundations of the Employer – Employee Relationship \(AL1\)](#)
 - Employment-at-Will
 - Public Policy Exceptions to Employment-at-Will
 - Just Cause & Willful Misconduct
 - Respondeat Superior & Vicarious Liability
 - Employee vs. Independent Contractor Status
 - Workers' Compensation & Employer Immunity



Legal Authority to Work and Pre-Employment Screening (AL2)

AGENDA

- I-9 Form for Employment Eligibility Verification
- I-9 Completion & Retention Requirements, Practices & Policies
 - I-9 Audits by DHS will be covered in AgWorks Webinar AL3 on 11/18/25, [I-9 Audits and ICE Raids: Protecting Your Business \(AL3\)](#)
- Criminal Background Checks
- Credit Checks
- Pre-Employment Drug Testing



Immigration Reform and Control Act - 1986

- Requires all employers verify each employee's identity and eligibility to work in U.S.
 - Includes both U.S. citizens and non-U.S. citizens.
- Verification made through completion of Employee Eligibility Verification Form I-9 for each employee.
- [I-9 Central](#) – USCIS webpage.



Immigration Reform and Control Act

- Prohibits discriminating against worker due to national origin, citizenship, or intended citizenship.
 - In addition to federal anti-discrimination laws.
 - This provision and the other major federal anti-discrimination laws do not apply to employers of 3 or fewer employees.
 - [Understanding the Immigration and Nationality Act's Anti-Discrimination Provision](#)



U.S. Department of Homeland Security (DHS)



U.S. Citizenship and Immigration Services (USCIS)

- USCIS Form I-9 *Employment Eligibility Verification*

OMB No. 1615-0047, *Expires 05/31/2027*, Edition 01/20/25, 4 pages

- Section 1 – must be completed by employee
- Section 2 – must be completed by employer
- Lists of Acceptable Documents – List A, List B, List C
- Supplement A – Preparer/Translator Certification for Section 1
- Supplement B – Reverification and Rehire

[USCIS.GOV/I-9](https://uscis.gov/i-9)

Why?



Documents that
Establish Both
Identity and
Employment
Authorization

or



Documents
that Establish
Identity

+



Documents
that Establish
Employment
Authorization

- The employee must present their employer with acceptable documents as ***evidence of identity*** and ***employment authorization***.
- The employer must examine these documents to determine whether they ***reasonably appear to be genuine*** and ***relate to the employee***, then record the document information on the employee's Form I-9.
- “Acceptable documents” presented by employee **MUST BE ORIGINALS !**



- Employers who choose to ***remotely examine*** the employee's documentation under a DHS-authorized alternative procedure rather than via physical examination must indicate they did so by checking the box provided. **[Only for E-Verify enrollees]**



Employee **accepts offer** for employment



Employee **completes Section 1** of the form no later than first day of work for pay



Employee **gives documents and form** to employer



Employer **completes Section 2** of the form no later than 3rd business day employee starts work for pay



If Employee's work authorization expires, **complete Supplement B**

Basics of I-9 Requirements

- **Who?** Any employer who recruits, refers for a fee, or hires an individual for employment in the U.S. after 11/6/86.
- **What?** Only “employees/employment” – not “independent contractors.”
 - Review prior webinar - AL1 (9/30/25) – for definition of those relationships.
- **When?** Sec. 1 /Employee portion – not later than 1st day of employment.
Sec. 2 /Employer portion – not later than 3 bus. days after 1st day of employment.
- Form I-9 is obtained electronically from USCIS - link on prior slide.
- Complete manually or as a “fillable form” (can type your answers directly into the form).
- Signatures always must be originals --> Print, Complete, Sign, Retain Original.
- Not filed with any USCIS or other government office. Original kept in employer’s files.
- **Retain:** 3 years after date of hire or one year after date of termination, whichever is later.

Basics of I-9 Requirements (cont.)

- Spanish language [form](#) & [instructions](#) are available to assist an employee in completing an English version of the form—only employers in Puerto Rico are compliant if completing and retaining the Spanish version. In PA – must complete English version.
- [Instructions for Form I-9](#) – total of 8 pages.
- Employers must provide employees access to the Instructions for completing Form I-9.
- Original documents only must be presented by the employee..
- Must make all I-9 forms on file available for inspection (“audit”) by DHS, US DOL, or DOJ.
- I-9 Audit Request - 72 hours advance notice, verbal or in writing.
- I-9 Audits will be covered in upcoming 11/28/25 webinar (AL3)
- [Handbook for Employers M-274](#) - very detailed and thorough.

Handbook for Employers M-274



U.S. Citizenship
and Immigration
Services

1. **[Why Employers Must Verify Employment Authorization and Identity of New Employees](#)**
2. **[2.0 Who Must Complete Form I-9](#)**
3. **[3.0 Completing Section 1: Employee Information and Attestation](#)**
4. **[4.0 Completing Section 2: Employer Review and Verification](#)**
5. **[5.0 Automatic Extensions of Employment Authorization and/or Employment Authorization Documents \(EADs\) in Certain Circumstances](#)**
6. **[6.0 Completing Supplement B, Reverification and Rehire of Form I-9](#)**
7. **[7.0 Evidence of Employment Authorization for Certain Categories](#)**
8. **[8.0 Rules for Continuing Employment and Other Special Rules](#)**
9. **[9.0 Correcting Errors or Missing Information on Form I-9](#)**
10. **[10.0 Retaining Form I-9](#)**
11. **[11.0 Unlawful Discrimination and Penalties for Prohibited Practices](#)**
12. **[12.0 Instructions for Agricultural Recruiters and Referrers for a Fee](#)**
13. **[13.0 Acceptable Documents for Verifying Employment Authorization and Identity](#)**
14. **[14.0 Some Questions You May Have About Form I-9](#)**
15. **[Appendix A: Common Abbreviations for Document Entry in Section 2](#)**
16. **[Summary of Changes](#)**



Employment Eligibility Verification

Department of Homeland Security

U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No.1615-0047
Expires 05/31/2027

START HERE: Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [Instructions](#).

ANTI-DISCRIMINATION NOTICE: All employees can choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information in **Section 1**, or specify which acceptable documentation employees must present for **Section 2** or Supplement B, Reverification and Rehire. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

Section 1. Employee Information and Attestation: Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment , but not before accepting a job offer.						
Last Name (Family Name)		First Name (Given Name)		Middle Initial (if any)	Other Last Names Used (if any)	
Address (Street Number and Name)			Apt. Number (if any)	City or Town	State ZIP Code	
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number		Employee's Email Address		Employee's Telephone Number	
<p>I am aware that federal law provides for imprisonment and/or fines for false statements, or the use of false documents, in connection with the completion of this form. I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct.</p>		Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions.):				
		<input type="checkbox"/> 1. A citizen of the United States				
		<input type="checkbox"/> 2. A noncitizen national of the United States (See Instructions.)				
		<input type="checkbox"/> 3. A lawful permanent resident (Enter USCIS or A-Number.)				
		<input type="checkbox"/> 4. An alien authorized to work until (exp. date, if any)				
		If you check Item Number 4. , enter one of these:				
		USCIS A-Number	OR	Form I-94 Admission Number	OR	Foreign Passport Number and Country of Issuance
Signature of Employee				Today's Date (mm/dd/yyyy)		

If a preparer and/or translator assisted you in completing Section 1, that person **MUST** complete the [Preparer and/or Translator Certification](#) on Page 3.

Section 2. Employer Review and Verification: Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box; see Instructions.									
List A		OR	List B	AND	List C				
Document Title 1									
Issuing Authority									
Document Number (if any)									
Expiration Date (if any)									
Document Title 2 (if any)		Additional Information <input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.							
Issuing Authority									
Document Number (if any)									
Expiration Date (if any)									
Document Title 3 (if any)									
Issuing Authority									
Document Number (if any)									
Expiration Date (if any)									
Certification: I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears to be genuine and to relate to the employee named, and (3) to the best of my knowledge, the employee is authorized to work in the United States.						First Day of Employment (mm/dd/yyyy): _____			
Last Name, First Name and Title of Employer or Authorized Representative						Signature of Employer or Authorized Representative		Today's Date (mm/dd/yyyy)	
Employer's Business or Organization Name			Employer's Business or Organization Address, City or Town, State, ZIP Code						

LISTS OF ACCEPTABLE DOCUMENTS

- All documents containing an expiration date must be unexpired.
- Documents extended by the issuing authority are considered unexpired.
- Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.
- Examples of many of these documents appear in the Handbook for Employers (M-274).

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND LIST C Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card		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, sex, height, eye color, and address	1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
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, sex, height, eye color, and address	
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph	3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card	
5. For an individual temporarily authorized to work for a specific employer because of his or her status or parole: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the individual's status or parole as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		5. U.S. Military card or draft record	5. U.S. Citizen ID Card (Form I-197)
		6. Military dependent's ID card	
		7. U.S. Coast Guard Merchant Mariner Card	7. Employment authorization document issued by the Department of Homeland Security For examples, see Section 7 and Section 13 of the M-274 on uscis.gov/i-9-central . The Form I-766, Employment Authorization Document, is a List A, Item Number 4. document, not a List C document.
		8. Native American tribal document	
		9. Driver's license issued by a Canadian government authority	
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI		10. School record or report card	
		11. Clinic, doctor, or hospital record	
		12. Day-care or nursery school record	

Acceptable Receipts			
May be presented in lieu of a document listed above for a temporary period. For receipt validity dates, see the M-274.			
<ul style="list-style-type: none">• Receipt for a replacement of a lost, stolen, or damaged List A document.• Form I-94 issued to a lawful permanent resident that contains an I-551 stamp and a photograph of the individual.• Form I-94 with "RE" notation or refugee stamp issued to a refugee.	OR	Receipt for a replacement of a lost, stolen, or damaged List B document.	Receipt for a replacement of a lost, stolen, or damaged List C document.

*Refer to the Employment Authorization Extensions page on [I-9 Central](#) for more information.



Supplement A, Preparer and/or Translator Certification for Section 1

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

USCIS
Form I-9
Supplement A
OMB No. 1615-0047
Expires 05/31/2027

Last Name (<i>Family Name</i>) from Section 1.	First Name (<i>Given Name</i>) from Section 1.	Middle initial (if any) from Section 1.
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Instructions: This supplement must be completed by any preparer and/or translator who assists an employee in completing Section 1 of Form I-9. The preparer and/or translator must enter the employee's name in the spaces provided above. Each preparer or translator must complete, sign, and date a separate certification area. Employers must retain completed supplement sheets with the employee's completed Form I-9.



Supplement B, Reverification and Rehire (formerly Section 3)

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

USCIS
Form I-9
Supplement B
OMB No. 1615-0047
Expires 05/31/2027

Last Name (<i>Family Name</i>) from Section 1.	First Name (<i>Given Name</i>) from Section 1.	Middle initial (if any) from Section 1.
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Instructions: This supplement replaces Section 3 on the previous version of Form I-9. Only use this page if your employee requires reverification, is rehired within three years of the date the original Form I-9 was completed, or provides proof of a legal name change. Enter the employee's name in the fields above. Use a new section for each reverification or rehire. Review the Form I-9 instructions before completing this page. Keep this page as part of the employee's Form I-9 record. Additional guidance can be found in the [Handbook for Employers: Guidance for Completing Form I-9 \(M-274\)](#)

Reverification and Rehire

Complete Supplement B if:

- Employee requires reverification (i.e. expired document - but N/A to U.S. citizen & green card holder).
- Rehired within three years of the date the original Form I-9.
- Provides proof of a legal name change.

Date of Rehire <i>(if applicable)</i>		New Name <i>(if applicable)</i>	
Date <i>(mm/dd/yyyy)</i>	Last Name (Family Name)	First Name (Given Name)	Middle Initial
Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.			
Document Title	Document Number (if any)	Expiration Date (if any) (mm/dd/yyyy)	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.			
Name of Employer or Authorized Representative	Signature of Employer or Authorized Representative	Today's Date <i>(mm/dd/yyyy)</i>	
Additional Information (Initial and date each notation.)			<input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.



Remote Examination of Documents

- “Alternative Procedure to Physical Document Examination”
- Only available to E-Verify enrollees.

Remote Examination of Documents Procedures:

- Examine copies (front and back, if the document is two-sided) of Form I-9 documents or an acceptable receipt to ensure that the documentation presented reasonably appears to be genuine and relates to the employee;
- Conduct a live video interaction with the individual presenting the document(s) to ensure that the documentation reasonably appears to be genuine and relates to the individual. The employee must first transmit a copy of the document(s) to the employer (per Step 1 above) and then present the same document(s) during the live video interaction; and
- Retain a clear and legible copy of the documentation (front and back if the documentation is two-sided).



E-Verify Option for Emp. Elig. Verification

- 1996 law authorized - web-based comparison of completed I-9 Form info to DHS and SSA records. Potential immediate eligibility confirmation. So far, 1.4M employers enrolled.
- Employer enrolls to use. Brings some extra duties, such as “case resolution” and “photo matching.”
- [E-Verify User Manual](#)
- Must get employee’s SSN to utilize. (employee required to provide).

Best Practices

- Keep I-9 forms filed separately from all other personnel file contents, due to anti-discrimination provisions in the law.
- Conduct periodic review (“internal audit”) of retained I-9 files to ensure forms are compliant and being retained properly.
- USCIS’ [Guidance for Employers Conducting Internal Employment Eligibility Verification Form I-9 Audits](#) – lots of invaluable step-by step outlines for dealing with discrepancies or errors that might be found during an employer’s own internal audit.
- To avoid discrimination claims, ALWAYS treat all info and communications about I-9 Forms and their content with 100% confidentiality.

Best Resources

- “[I-9 Central](#)” for updates, news, etc. - uscis.gov/i-9-central (separate from the “forms & instructions” download area of the DHS/USCIS website).
 - [Form I-9 Related News](#)
 - [Completing Form I-9](#)
 - [Form I-9 Acceptable Documents](#)
 - [Special Employment Categories](#)
 - [Remote Examination of Documents](#)
 - [Employee Rights and Resources](#)
 - [Legal Requirements and Enforcement](#)
 - [Form I-9 Resources](#)
 - [Policy & Related News Archive](#)
 - [Form I-9 Contact Us](#)
 - [E-Verify](#)
- USCIS [Policy Manual Volume 10 – Employment Authorization](#)



**U.S. Citizenship
and Immigration
Services**



Criminal Background Checks

[Request a Criminal History Background Check](#) – on yourself, a potential hire or volunteer, adoption, fostering, visa application, or an attorney can request for their client only.

- [Form SP 4-164](#) (\$22); [Form SP4-164A for volunteers](#) (free).
- “[Pennsylvania Access to Criminal History](#)” (PATCH) system of the [PA State Police](#).
- “CHRI” – Criminal History Record Information – terminology for the report.
- Only access to PA state criminal conviction records, NOT FEDERAL convictions.
- Request on-line or by mail. 10 at a time, if on-line. Credit card, cert. check, money order. Accounts for frequent users can be set up and billed monthly.
- ***Distinguish:*** [Pennsylvania Child Abuse History Certification](#) - submit and pay online through the [Child Welfare Information Solution \(CWIS\) self-service portal](#) of the Department of Human Services.
- **Caveat:** EEOC - [Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act](#)
- **Caveat:** “*Ban the Box*” local ordinances – very rare but be aware.

Credit Checks

- Only through private “Credit Reporting Agencies” (CRA).
- **Caveat:** EEOC: [Background Checks: What Employers Need to Know](#)
- [Fair Credit Reporting Act](#) (FCRA) - Pennsylvania employers must comply with FCRA requirements:
 1. Disclosure of intent to conduct a background check;
 2. Obtain written consent from the candidate;
 3. Following “[adverse action](#) process” when not hiring based on info received.
NOTE: The short article at this link is from a private CRA but is accurate and thorough.
- [A Summary of Your Rights Under the Fair Credit Reporting Act](#) – Consumer Financial Protection Bureau.



Pre-Employment Drug Testing

- As a result of legalization of medical and recreational marijuana in some jurisdictions, what was once traditional legal guidance on pre-employment drug testing is no longer applicable and in a complete state of flux.
- Seek legal counsel, without exception!
- National Association of Colleges and Employers (NACE), Center for Career Development and Talent Acquisition: [Preemployment Drug Testing and the Legalization of Medical and Recreational marijuana](#).
- **U.S. DOT:** [Procedures for Transportation Workplace Drug and Alcohol Testing Programs](#)
 - The Department of Transportation's (DOT) rule, 49 CFR Part 40, describes required procedures for conducting workplace drug and alcohol testing for the Federally regulated transportation industry.

Email questions and inquiries to Brook Duer at
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QUESTIONS? / DISCUSSION



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THANK YOU!