I. INTRODUCTION

Congress passed and the President signed into law the Immigration Reform and Control Act of 1986 on November 6, 1986. Put briefly, the current law says that employers should hire only American citizens and aliens who are authorized to work in the United States. The law places certain responsibilities on all employers, including government jurisdictions, to verify the citizenship status or authorization to work of all employees hired after November 6, 1986.

Under the law, all applicants for employment must provide employers with proof of U.S. citizenship or legal immigrant status. To comply with the law, employers must state on an Immigration and Naturalization Service form (Form I-9), under penalty of perjury, that the identity and eligibility of a person being recruited, employed, or being referred for employment has been verified by examining appropriate documents. The employee must swear on the form, also under penalty of perjury, to his or her eligibility for employment. This procedure incorporates Federal, State, and DOH policy regarding the law.

The Governor has directed persons in the Division of Highways who are authorized to hire employees to generally take the following actions:

- Determine that all new hires after May 31, 1987 have completed and signed Employment Verification Forms (I-9) within three work days after employment;
- Examine documents for employee identification, record information of Form I-9 and sign the form;
- Retain the form for three years or for one year past the end of employment of the individual, whichever is longer; and
- Do no discharge present employees or refuse to hire new employees based on foreign appearance or language.
II. INFORMATION REQUIREMENTS


The U.S. Immigration and Naturalization Services Employment Eligibility Verification Form (I-9) is to be completed on all new employees and re-employees. Information requirements pertinent to the immigration law and completion of Form I-9 for Division of Highways employments are as follows:

- Prominently display the fact that the Division of Highways intends to hire only U.S. citizens and aliens who are authorized to work in the United States.
- All Forms I-9 for employees hired between November 7, 1986 and May 31, 1987 have been completed before September 1, 1987.
- Section One (Employee Information Verification) of Form I-9 for employees hired after May 31, 1987 is to be completed by the employee the first day of employment and the required documents from the appropriate lists (see the next two bullets, below) are to be presented to the Division of Highways representative within three days (by the third day of employment).

The Division of Highways representative must complete Section Two (Employer Review and Verification) within three business days of a hiring (third day of employment).

- The Division of Highways representative cannot specify documents to be presented, but must accept any prescribed documents or combination of documents listed on Form I-9 (see Section VI, Forms) or on the list under “IV.B.”. The employer should thoroughly examine the document(s) provided by the person. Documents should appear to be genuine and to relate to the individual presenting them. See “IV.C.” for sample document illustrations.

- Employers must establish both the identity and employment eligibility of individuals seeking employment. Part Two (Employer Review and Verification) Form I-9 is divided into three lists (Lists A, B and C). Documents on List A establish both identity and employment eligibility, Documents on List B establish only identity while documents on List C establish only employment eligibility. Therefore, completion of the employer’s part of Form I-9 requires that one of the following documents or combination of documents be presented and examined by the employer:
  - One document from List A OR
  - One document from List B AND one document from List C.

Based on which type of document(s) is/are presented, the employer will document the information required on List A OR List B AND List C.

- If an employee cannot present appropriate document(s) within three days of employment, the employees must show the Division of Highways representative
a receipt (within three days) showing that the document(s) have been applied for and must present the actual document(s) within 21 days of the hire.

- Documents must be presented within the time frame stated herein in order for the employee to continue to work.
- Any documents copied must be filed with the applicable Form I-9 and not used for any other purpose. The Form I-9 and documents must be retained for three years after the date or hiring, or one year after the date the employment is terminated, whichever is later.
- Division of Highways' representatives are responsible for re-verifying employment eligibility of employees whose employment eligibility documents carry an expiration date. If an employee’s work authorization expires and you want to continue employing the individual, the employee must present a document that either shows an extension of employment eligibility or that is a new grant of work authorization and a new Form I-9 will need to be completed. If the employee cannot produce such a document, that person is no longer eligible to work. Continuing to employ that person is a violation of the law, even if the employee was previously authorized to work.
- A Social Security Number starting with a “9” is an invalid number. A Social Security Card is not valid unless signed. An official card is required. Metal replicas, copies, etc. are not suitable.
- All employees whose present names differ from birth names, because of marriage or other reasons, must print or type their birth names in the appropriate space of Section One of Form I-9. Also, employees whose names change after employment verification should report these changes to their employer. Name changes of employees which occur after initial preparation of Form I-9 should be recorded on the form by lining through the old name, printing the new name and the reason (such as marriage), and dating and initialing the changes. Employers should not attempt to delete or erase the old name in any fashion.
- If a person assists the employee in completing Form I-9, the preparer must certify the form by signing it and printing his or her complete name and address in the appropriate blocks.
- The originals of Forms I-9 and a copy of the appropriate document(s) are to be sent to Human Resources Division along with the employee orientation. The appropriate organization should also maintain a copy of each Form I-9 and the appropriate document(s).

III. **DISCRIMINATION**


The new immigration law also prohibits discrimination. Under this law you may not discriminate against any individual (other than an unauthorized alien) in hiring, discharging or recruiting because of that individual’s nation origin or, in the case of a citizen or intending citizen, because of his or her citizenship status.

Employers can avoid discrimination by applying the verification procedures of the Act to all newly hired employees and by hiring without respect to the national origin or citizenship status of those authorized to work in the United States. Seeking identity and
employment eligibility documents only from individuals of a particular national origin or from those who appear or sound foreign violates the new immigration law and may also be a violation of Title VII or the Civil Rights Act of 1964. Employers should not discharge present employees, refuse to hire new employees, or otherwise discriminate on the basis of foreign appearance, language, or name. It is a violation of Title VII to discriminate against employees or applicants for employment on the basis of national origin.

The Division of Highways, in order to be in compliance with this law, must strictly adhere to the previously cited requirements. An Immigration Naturalization Services Officer or a Department of Labor Officer must be presented the Form I-9 for inspection upon request. The Division of Highways will be giving at least three days advance notice of an inspection. Penalties will be imposed if an investigation reveals that the Division of Highways has violated the new immigration law.

Requests for additional information or guidance should be addressed to Human Resources Division.

IV. **EXHIBITS**

Republished: 11/1/2000  
Effective: 5/15/1988

**EXHIBIT A – POLICY POSTER**
The American Policy is our Policy:

We Hire Only U.S. Citizens and Lawfully Authorized Alien Workers

Provided by:
The Immigration and Naturalization Service
Washington, D.C. 20536

EXHIBIT B - DOCUMENT LISTS
LIST A

Document Lists That Establish Identity and Employment Eligibility

- US Passport Certificate
- Certificate of US Citizenship
- Certificate of Naturalization
- Employment authorization

LIST B

Documents That Establish Identity

- Social Security Card
- Employment authorization
- US Passport Certificate
- Certificate of US Citizenship
- Certificate of Naturalization
- Employment authorization

LIST C

Documents That Establish Employment Eligibility

- US Passport Certificate
- Certificate of US Citizenship
- Certificate of Naturalization
- Employment authorization

EXHIBIT B - DOCUMENT LIST A
EXHIBIT C - DOCUMENT ILLUSTRATIONS
Temporary Resident Card I-488

Employment Authorization Card I-766A

DOCUMENT LIST B.

Sample Driver's License

EXHIBIT C - DOCUMENT ILLUSTRATIONS
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