

EMPLOYMENT DEVELOPMENT DEPARTMENT

Amendment of Title 22, California Code of Regulations Section 2051-3

VERIFICATION CRITERIA

Final Statement of Reasons

INTRODUCTION:

This regulatory action amends California Code of Regulations (CCR), title 22, section 2051-3 to: (1) delete the existing outdated listing of Employment Authorization Document (EAD) forms in the CCR used to verify an individual's true identity and legal right to work prior to the provision of employment services and (2) substitute a reference to federal law where valid EAD forms are listed and described.

BACKGROUND:

California Unemployment Insurance Code section 9601.5 requires the Employment Development Department's (Department) Workforce Services Branch to determine an individual's legal status and right to work based on procedures established under federal law before employment services can be provided. The Department relies on the employment verification provisions of the Immigration and Nationality Act Section 274A (8 U.S.C. § 1324a) and Title 8 Code of Federal Regulations part 274a.2 for direction concerning acceptable documentation.

The federal list of EAD forms is revised as needed when new legislation, such as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the Enhanced Border Security Act of 2002, is signed into law. When the federal list is revised, the Department must revise its regulation to maintain conformance to federal law.

NECESSITY:

If section 2051-3 is revised to delete the existing outdated listing of EAD forms and simply reference federal law where the currently acceptable forms are already listed and described, the Department will not need to revise section 2051-3 each time the federal government amends the list of acceptable EAD forms. Instead, future changes to the list of EAD forms can be addressed using appropriate administrative processes that may be quickly completed. The administrative process would consist of revising an existing Department form on an on-going administrative basis to list the valid EAD documents as set out in federal law. In addition, the Department's automated job matching system can be enhanced with customer help screens that list valid EAD

documents so the Department's customers can be continuously apprised of changes in the list in conformity with federal law.

The proposed amendment is necessary to streamline the provisions of section 2051-3 and ensure that the Department's regulation always references the current federal employment authorization documents.

The following proposed amendment to CCR, title 22, section 2051-3, will:

1. Delete from this section the existing outdated listing of EAD forms.
2. Add references to the employment authorization provisions set out in the Immigration and Nationality Act Section 274A and Title 8 Code of Federal Regulations part 274a.2 that list valid EAD forms.

PLAIN ENGLISH CONFORMING STATEMENT:

The Department has drafted the proposed amendment in plain English pursuant to section 11346.2(a)(1) of the Government Code.

PUBLIC NOTICE AND WRITTEN COMMENT PERIOD:

On July 11, 2008, the Office of Administrative Law printed a public notice for this regulatory action in the California Regulatory Notice Register, and the Department mailed a copy of the public notice, the text of the proposed regulation, and the initial statement of reasons to everyone known to be interested in the Department's regulation.

During the 45-day written public comment period which was held from July 11, 2008 through August 25, 2008, no one requested a public hearing and no one presented written comments regarding the proposed regulation.

ECONOMIC IMPACT STATEMENT:

The Department does not anticipate this regulatory action will result in any costs to the federal government, to State government, to local county governments, to private individuals, or to businesses and small businesses. Thus, no costs were shown on the Economic and Fiscal Impact Statement.

The Department has made an initial determination that the proposed amendment will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states because this regulation makes only clarifying changes to the current regulation in substituting the existing listing of EAD documents with a reference to federal law. The Department has determined that the proposed amendment will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the

elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

SMALL BUSINESS IMPACT:

The Department has determined the proposed amendment will have no impact on small businesses, as the proposed amendment will not impose any new mandates, requirements or cost from the enforcement of this regulation on small businesses.

LOCAL MANDATE DETERMINATION:

The Department has determined that this proposed amendment will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

CONSIDERATION OF ALTERNATIVES:

In accordance with section 11346.9(a)(4) of the Government Code, the Department has determined that no alternative considered would be more effective in carrying out the purpose for which this action was intended than the proposed regulatory action. The Department has also determined that no alternative would be as effective and less burdensome to affected private persons than the proposed regulatory action.
