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## **E-Verify Rule for Federal Contractors Suspended Until May 21, 2009; Employers Breathe Sigh of Relief**

The U.S. Chamber of Commerce announced on Tuesday, January 27, that the federal government has agreed to suspend implementation of a rule that would require federal contractors and subcontractors to use the Department of Homeland Security (DHS) and the Social Security Administration's (SSA) E-Verify system to verify their employees' eligibility to work in the United States. The rule has been suspended until May 21, 2009.

### **The Regulation, Related Litigation, and Action in Congress**

The regulation, published in the *Federal Register* in November 2008, would require federal contractors and subcontractors to use the E-Verify system to verify their employees' eligibility to work in the United States. Federal government agencies were originally required to insert the E-Verify requirement into new contracts issued after January 15, 2009. Earlier this month, the rule was suspended until February 21, 2009, with the consent of the government in pending litigation brought by the Chamber and other interested parties. Tuesday's announcement will give employers three more months to prepare for implementation of the new rule. Some employers, however, who receive federal funds as a result of the economic stimulus package pending in Congress may be required to sign up for E-Verify sooner. The House of Representatives included in its version of the stimulus bill a mandatory E-Verify requirement; but the fate of that provision is uncertain. The Senate's stimulus bill does not contain a similar obligation. We will keep you informed of developments as they arise.

For details about the regulation and the litigation, see our alerts titled "Federal Contractors Required to Use E-Verify Beginning in January 2009" and "E-Verify Rule for Federal Contractors On Hold Until February 20, 2009."

### **The New Administration**

On January 20, 2009, President Barack Obama's Chief of Staff, Rahm Emanuel, issued a memorandum stating that executive departments and agencies should "consider

extending for 60 days the effective date of regulations that have been published in the *Federal Register* but not yet taken effect.” The U.S. Chamber of Commerce requested that the memorandum be applied to the E-Verify regulation.

On Tuesday, the federal government agreed to suspend implementation of the regulation to allow the new administration an opportunity to review the rule. The May 21 applicability date is expected to be formalized later this week by publication in the *Federal Register*.