



DHS Issues Supplemental Proposed Rule With Employer Guidance Regarding No-Match Letters

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The U.S. Department of Homeland Security (DHS) released today a Supplemental Proposed Rulemaking for the No-Match Rule previously issued on August 15, 2007. This rulemaking addresses three issues cited in a decision of the U.S. District Court for the Northern District of California enjoining the August 2007 No-Match Rule. This Supplemental Proposed Rulemaking provides a more detailed analysis of how DHS developed the No-Match policy and will help responsible employers ensure that they are not employing unauthorized workers.

"We are serious about immigration enforcement. The No-Match Rule is an important tool for cracking down on illegal hiring practices while providing honest employers with the guidance they need," said Homeland Security Secretary Michael Chertoff. "This supplement specifically addresses the three grounds on which the district court based its injunction. We have also filed an appeal and are pursuing these two paths simultaneously to get a resolution as quickly as possible."

The rule does not create new legal obligations for businesses. It simply outlines clear steps an employer may take in response to receiving a letter from the Social Security Administration indicating that an employee's name does not match the social security number on file. If the business follows the guidance in the No-Match Rule, comprising various actions to rectify the no-match within 90 days of receiving the letter, they will have a safe harbor from the no-match letter being used against them in an enforcement action.

The original No-Match Notice of Proposed Rule Making was published on June 14, 2006, and the comment period was open for 60 days. The department then incorporated the comments and issued a final rule on August 15, 2007. DHS is requesting public comment on the Supplemental Proposed Rulemaking for 30 days after its publication in the Federal Register.

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