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## **SOCIAL SECURITY 'NO-MATCH' LETTERS: EMPLOYERS URGED TO ATTEND TO RECORDS** [Normal View](#)

### **Workplace-focused immigration enforcement continues**

Work site enforcement of U.S. immigration law appears to be increasing and experts say employers may need to update their recordkeeping as a result.

In June 2006, the Department of Homeland Security (DHS) announced proposed regulations that include directives to employers for dealing with "no-match" letters from the Social Security Administration (SSA) when an employee number is not recognized as valid or appears to be inaccurate.

The announcement is part of an increased immigration enforcement effort by DHS, begun last spring, focusing Immigration and Customs Enforcement (ICE) efforts on employers, including construction businesses. Thousands of dollars in fines already have been levied on some builders.

**In the latest rulemaking effort**, DHS proposes to clarify procedures an employer would have to take after receiving a no-match letter, as well as deadlines for responding. It also would establish non-compliance with the rules as possible evidence of employer disregard for immigration and employment law.

Under the proposed rules, upon receiving an SSA no-match letter, an employer would be expected, within 14 days, to check his or her records to determine whether the no-match resulted from a clerical error and, if not, to request confirmation from the employee in question that the worker's information is correct.

**Employers may verify a Social Security number** by calling 800-772-6270, 7:00 a.m. to 7:00 p.m. EST weekdays or go to <http://www.ssa.gov/employer/ssnv.htm>. Waiting times may be exhaustive and the telephone line is often busy.

Attorneys at Greenberg Traurig LLP, which recently published an alert on the proposed rulemaking, recommend that when calling SSA, employers record the date and time of Social Security number verification.

If in 60 days the no-match issue is not resolved, employer and employee may complete a new Form I-9, as if the employee is a new hire, excluding the document that prompted the no-match letter and any document that does not include a photograph of the employee. Then, if the employee is determined to be unauthorized to work in the United States, DHS will not consider the employer to have "constructive knowledge" of the worker's status.

Greenberg Traurig warns employers, however, not to resort to "citizen-only" or other discriminatory policies in their hiring or in documenting workers' status or identity. Also, the firm says, an SSA discrepancy does not convey an automatic right to discharge an employee.

**"The world of work-site enforcement is becoming much more sophisticated** and the burden on employers appears to be increasing," according to Greenberg Traurig's July 14, 2006 alert on the subject. " ... We find that many of our client's I-9 recordkeeping practices need to be updated, which often provides an excellent opportunity for employers to develop consistent recordkeeping procedures that ... reduce the number of no-match letters they receive."

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Also, [download materials](#) NAHB's Legal Affairs Department has prepared for builders on the subject of I-9s and other immigration issues.

Congress continues to work on immigration reform legislation that would make many significant changes to current immigration law and regulations. However, election year politics have dimmed the likelihood of any comprehensive legislation advancing this year. As lawmakers continue to battle over the issue, many believe it is possible that a bill focused solely on border security measures could be approved prior to the end of the fiscal year on Sept. 30.

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