



August 19, 2009

Special Alert:

DHS Proposes to Rescind “No-Match” Regulation

On August 19, 2009, the Department of Homeland Security (DHS) published a proposed rule that would rescind the “Safe Harbor” regulation that the Bush administration initially promulgated on August 15, 2007, and that has been enjoined by the courts since that time.

As our readers may recall, this rule was issued by the Bush Administration and established a “Safe Harbor” procedure for employers to follow whenever they received a No-Match letter from the Social Security Administration. Under the rule, employers who satisfied the “Safe Harbor” requirements would not be subject to civil and/or criminal enforcement actions on that basis. Upon further review, DHS has decided to focus its enforcement efforts relating to the employment of unauthorized foreign nationals on improved compliance through participation in the E-Verify, IMAGE or other similar programs.

Comments on the proposed rule must be submitted not later than September 18, 2009.

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