Statement by Homeland Security Secretary Michael Chertoff on the No-Match Appeal

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Yesterday, the U.S. Department of Justice filed an appeal on behalf of the Department of Homeland Security (DHS) on the injunction against the No-Match Rule in San Francisco, Calif.

I believe that the No-Match Rule is a major step forward in preventing employment of illegal migrants. Contrary to the ACLU's incorrect statements, the rule is not harmful to legal workers. DHS is not abandoning it.

Employers receive a No-Match letter from the Social Security Administration when an employee's name does not match the social security number it has on file. Sometimes there is an innocent explanation for this discrepancy, such as a clerical error. But sometimes the discrepancy reflects the fact that the employee in question is an illegal alien. When employers receive such No-Match letters, they are on notice that the employees in question may not be authorized to work.

Under our No-Match Rule, no employer should terminate an employee based upon a no-match letter alone. But no employer should ignore such a letter or the discrepancy it reveals. The No-Match Rule gives employers and employees 90 days – a full three months – to correct the discrepancy.

If the mismatch is a clerical error, that is a good opportunity to correct the mistake. When the mismatch shows fraud, however, appropriate steps should be taken. Businesses that follow the procedures in the rule will have a safe harbor from enforcement action. Those that ignore no-match letters place themselves at obvious risk and invite suspicion that they are knowingly employing workers who are here illegally.

Far from abandoning the No-Match Rule, we are pressing ahead by taking the district court's order to the Ninth Circuit Court of Appeals. At the same time, we will soon issue a supplement to the rule that specifically addresses the three grounds on which the district court based its injunction. By pursuing these two paths simultaneously, my aim is to get a resolution as quickly as possible so we can move the No-Match Rule forward and provide honest employers with the guidance they need.

The ACLU's lawsuit has put this vital protection on hold. That is bad for immigration enforcement and bad for America's law-abiding employers and their legal workers. The only real beneficiaries of the ACLU's strategy are employers who would rather close their eyes to cheap and profitable illegal labor than obey the laws of our country.