

# IDAHO POTATO PULSE



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Dear Members of Idaho's Potato Industry:

Below is the latest information from United Fresh on the Department of Homeland Security's No Match Rule. Please note that the court stay is still in place until the judge determines that the government has met its obligation with the supplemental rule.

Sent on behalf of Pat Kole  
Idaho Potato Commission



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## DHS Issues Final Rule on No-Match Letters

At a press conference earlier today, Secretary of Homeland Security Michael Chertoff [announced](#) that the U.S. Department of Homeland Security (DHS) will soon publish in the Federal Register the [Supplemental Final Rule](#) (SFR) to the final "No-Match" rule that was issued in August 2007 but which has not yet been implemented because of a lawsuit that was filed at the end of the year. The Supplemental Final Rule will provide additional background and cost-benefit analysis on the August No-Match rule and outline steps employers can take to resolve inaccuracies in no-match letters they receive from the Social Security Administration (SSA).



"At this time we are consulting with our legal team to determine next steps in this process," said Robert Guenther, senior vice president of public policy at United Fresh. "Based on a preliminary analysis of the SFR, it appears there have been very little changes to the actual rule published last year. If the judge agrees that DHS has addressed all procedural objections, the No-Match rule could be effective immediately," Robert added.

A complete analysis of the Supplemental Final Rule will be available on the United Fresh [website](#) shortly.

### What are "no-match" letters?

Each year employers are required to send Forms W-2 to the Social Security Administration (SSA) by the last day of February (or last day of March if you file electronically) to report each employee's previous calendar year wages and taxes. "Employers are required to file Form W-2 for wages paid to each employee from whom: a) income, social security, or Medicare taxes were withheld or b) income tax would have been withheld if the employee had claimed no more than one withholding allowance or had not claimed exemption from withholding on Form W-4, Employees Withholding Allowance Certificate." If an employee name and their reported social security number do not match SSA records, SSA sends a letter, commonly referred to as a "no-match" letter, informing the employer of the mismatch. There can be many causes for a no-match, including a technical error, such as a misspelled name or clerical error. However, another cause for a no-match may be that an employee is not authorized to work

name or clerical error. However, another cause for a no-match may be that an employee is not authorized to work in the United States and may be using a false social security number or a social security number assigned to someone else.

#### **Background on the No-Match Rule**

The final No-Match rule was issued in August 2007 but was stayed by the U.S. District Court in San Francisco last year. This stay was due to litigation led by the U.S. Chamber of Commerce, National Roofing Contractors Association, American Nursery and Landscape Association, and United Fresh Produce Association. In October 2007, these groups successfully challenged some of the procedural aspects of how the rule was issued, and in March 2008, DHS published the Supplemental Proposed Rule addressing the issues raised by the Court, including a more detailed analysis of how the department developed the no-match policy and a detailed economic analysis of the rule.

For additional information regarding the SSA and DHS policy regarding no-match letters, visit the [SSA website](#). In addition, you can visit the [United Fresh No-Match Immigration Resource Center](#) for additional information about this important issue.

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