



May 2009



Safe Harbor Update

The Social Security Administration (SSA) acts as an agent for the Internal Revenue Service (IRS) and is responsible for processing and crediting wage data reported on Forms W-2 and W-3 (Wage and Tax Statement and Transmittal of Wage and Tax Statements, respectively). Each year, SSA processes approximately 245 million Forms W-2 from employers, covering approximately 153 million workers. Self-employed individuals report self-employment income to the Internal Revenue Service (IRS). IRS then sends this information to SSA.

Accurate earnings information is vitally important to the administration of the Social Security program because a worker's earnings record is the basis for computing retirement, survivors and disability benefits. If the name and Social Security Number reported cannot be matched to an individual worker's earnings record, SSA cannot credit the wages, and the worker may not qualify for Social Security benefits or the benefit amount payable may be wrong. In an effort to ensure that workers have an opportunity to correct any discrepancies in their earnings records, SSA has issued letters since 1979 to all EMPLOYEES whose name and SSN could not be matched. These letters are called Decentralized Correspondence, or DECOR letters. In these letters, SSA requests that employees contact SSA to correct their records.

SSA started mailing the Tax Year 2007 DECOR letters to employees on April 3, 2008, and will continue mailing the letters on a flow basis. In total, they expect to issue approximately 8-9 million DECOR letters for Tax Year 2007.

It is important to note that the DECOR letters sent to employees are not subject to the pending court case, which led a California court to enjoin the Department of Homeland Security (DHS) from implementing its rule entitled "Safe Harbor Procedures for Employers That Receive a No Match Letter," and SSA from sending the Employer Educational Correspondence (EDCOR) No Match letters reflecting the DHS rule. Due to the pending court case, SSA did not send the Employer No Match (EDCOR) letters for Tax Year 2006, and SSA does not plan to send the Tax Year 2007 letters before the litigation is settled.

Written briefs had been due on April 10, 2009, but on April 9, the court granted DHS' motion for an extension of time. Briefs are now due on June 10, 2009.

The Focus

U.S. Labor Department's OSHA proposes more than \$46,000 in fines against North Attleboro, Mass., metals plant following chlorine gas leak

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has cited Metalor Technologies for 10 alleged serious violations of safety standards, with \$46,500 in fines, following an inspection prompted by a Nov. 7, 2008, chlorine gas leak at the company's North Attleboro, Mass., metals refining plant.

OSHA's inspection found deficiencies in the plant's Process Safety Management (PSM) program, a detailed set of requirements and procedures employers must follow to proactively assess and address hazards associated with processes and equipment that use large amounts of hazardous chemicals. In this case, the process involved the use of chlorine gas to purify precious metals.

Specifically, the company had not compiled information on the chemicals, technology and equipment used in the purifying process; performed an initial process hazard analysis; developed and implemented written procedures covering the process, its ongoing integrity and any changes to it; audited the process at least once every three years; and obtained and evaluated the safety and health programs of outside contractors working in the plant. The company also failed to post a sign identifying a confined space.

These conditions resulted in the issuance of the 10 serious citations. OSHA issues serious citations when death or serious physical harm is likely to result from hazards about which the employer knew or should have known.

The company has 15 business days from receipt of the citations to comply, request an informal conference with the OSHA area director or contest the citations and proposed penalties before the independent Occupational Safety and Health Review Commission.