



Date: January, 2006



A Compliance Check Newsletter

I-9 Document Review

Employers' Responsibility under the Law -- Document Review Standard

The standard for review of documents in the employment eligibility verification process is that of reasonableness. An I-9 List document is acceptable if it reasonably appears on its face (1) to be genuine and (2) to relate to the individual who presents it. In other words, an employer or employer's agent who signs Section 2 of the Form I-9 is not attesting to the legitimacy of the status of the person who presents the document but, rather, to the fact that he or she has reviewed the original document and that it reasonably appears to him or her, upon reasonable inspection of its features and the information it contains, to be genuine and to relate to the employee who has presented it for employment eligibility verification purposes.

Relationship between Document Review and Continued Employment

If a card reasonably appears to be genuine and to relate to the person presenting it, the employer should not dismiss that employee. However, if a card does not meet this standard, the employer should reject it for employment eligibility verification purposes and ask the individual to produce other acceptable I-9 documentation. In cases where the employee does not produce acceptable documentation that appears to be genuine and to relate to the individual presenting it, the employer should not continue to employ the individual.

Constructive knowledge

Knowingly hiring or continuing to employ unauthorized aliens is a serious violation that subjects the employer to civil and, where there is a pattern or practice of such violations, criminal penalties. In this context, the term knowing includes not only actual knowledge but also knowledge which may fairly be inferred through notice of certain facts and circumstances which would lead a person, through the exercise of reasonable care, to know about a certain condition. Constructive knowledge may include, but is not limited to, situations where an employer: (1) fails to complete or improperly completes the Form I-9; (2) has information available to it that would indicate that the alien is not authorized to work, such as Labor Certification and/or an Application for Prospective Employer; or (3) acts with reckless and wanton disregard for the legal consequences of permitting another individual to introduce an unauthorized alien into its work force or to act on its behalf.

NOTE: An employee's foreign appearance or accent is not a relevant factor.

For further information, you may go to www.uscis.com

OSHA Offers Tips to Protect Workers in Cold Environments

With the onset of cold weather, OSHA is reminding employers and workers to take necessary precautions, such as those listed on OSHA's Cold Stress Card, to prevent and treat cold-related health problems. Workers in construction, commercial fishing, maritime and agriculture are among those who need to take precautions.

Prolonged exposure to freezing or cold temperatures may cause serious health problems such as trench foot, frostbite and hypothermia. In extreme cases, including cold water immersion, exposure can lead to death. Danger signs include uncontrolled shivering, slurred speech, clumsy movements, fatigue and confused behavior. If these signs are observed, call for emergency help.

OSHA's Cold Stress Card provides a reference guide and recommendations to combat and prevent many illnesses and injuries. Available in English and Spanish, this laminated fold-up card is free to employers, workers and the public.

How to Protect Workers

- Recognize the environmental and workplace conditions that may be dangerous.
- Learn the signs and symptoms of cold-induced illnesses and injuries and what to do to help workers.
- Train workers about cold-induced illnesses and injuries.
- Encourage workers to wear proper clothing for cold, wet and windy conditions, including layers that can be adjusted to changing conditions.
- Be sure workers in extreme conditions take a frequent short break in warm dry shelters to allow their bodies to warm up.
- Try to schedule work for the warmest part of the day.
- Avoid exhaustion or fatigue because energy is needed to keep muscles warm.
- Use the buddy system - work in pairs so that one worker can recognize danger signs.
- Drink warm, sweet beverages (sugar water, sports-type drinks) and avoid drinks with caffeine (coffee, tea, sodas or hot chocolate) or alcohol.
- Eat warm, high-calorie foods such as hot pasta dishes.
- Remember, workers face increased risks when they take certain medications, are in poor physical condition or suffer from illnesses such as diabetes, hypertension or cardiovascular disease.

For free copies of OSHA's Cold Stress Card in English or Spanish, go to OSHA's website, www.osha.gov, or call 1(800) 321-OSHA.