

“(7) The employer shall use the procedures for document verification set forth in this paragraph for all employees without regard to national origin or citizenship status.

“(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—(1) IN GENERAL.—The Secretary, in cooperation and consultation with the Secretary of State, the Commissioner of Social Security, and the states, shall implement and specify the procedures for EEVS. The participating employers shall timely register with EEVS and shall use EEVS as described in subsection (d)(5).

“(2) IMPLEMENTATION SCHEDULE.—

“(A) As of the date of enactment of this section, the Secretary in his discretion, with notice to the public provided in the Federal Register, is authorized to require any employer or industry which the Secretary determines to be part of the critical infrastructure, a federal contractor, or directly related to the national security or homeland security of the United States to participate in the EEVS. This requirement may be applied to both newly hired and current employees. The Secretary shall notify employers subject to this subparagraph 30 days prior to EEVS.

“(B) No later than 6 months after the date of enactment of this section, the Secretary shall require additional employers or industries to participate in the EEVS. This requirement shall be applied to new employees hired, and current employees subject to reverification because of expiring work authorization documentation or expiration of immigration status, on or after the date on which the requirement takes effect. The Secretary, by notice in the Federal Register, shall designate these employers or industries, in his discretion, based upon risks to critical infrastructure, national security, immigration enforcement, or homeland security needs.

“(C) No later than 18 months after the date of enactment of this section, the Secretary shall require all employers to participate in the EEVS with respect to newly hired employees and current employees subject to reverification because of expiring work authorization documentation or expiration of immigration status.

“(D) No later than three years after the date of enactment of this section, all employers shall participate in the EEVS with respect to new employees, all employees whose identity and employment authorization have not been previously verified through EEVS, and all employees in Z status who have not previously presented a secure document evidencing their Z status. The Secretary may specify earlier dates for participation in the EEVS in his discretion for some or all classes of employer or employee.

“(E) The Secretary shall create the necessary systems and processes to monitor the functioning of the EEVS, including the volume of the workflow, the speed of processing of queries, and the speed and accuracy of responses. These systems and processes shall be audited by the Government Accountability Office months after the date of enactment of this section and 24 months after the date of enactment of this section. The Government Accountability Office shall report the results of the audits to Congress.

“(3) PARTICIPATION IN EEVS.—The Secretary has the following discretionary authority to require or to permit participation in the EEVS—

“(A) To permit any employer that is not required to participate in the EEVS to do so on a voluntary basis;

“(B) To require any employer that is required to participate in the EEVS with respect to its newly hired employees also to do so with respect to its current workforce if the Secretary has reasonable cause to believe that the employer has engaged in any violation of the immigration laws.

“(4) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required under this subsection to participate in the EEVS and fails to comply with the requirements of such program with respect to an individual—

“(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to that individual, and

“(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) or (a)(2) of this section.

Subparagraph (B) shall not apply in any prosecution under subsection 274A(f)(1).

“(5) PROCEDURES FOR PARTICIPANTS IN THE EEVS.—

“(A) In general.—An employer participating in the EEVS must register in the EEVS and conform to the following procedures in the event of hiring, recruiting, or referring any individual for employment in the United States:

“(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers must follow to register in the EEVS. In prescribing these procedures the Secretary shall have authority to require employers to provide:

“(I) employer's name;

“(II) employer's Employment Identification Number (EIN);

“(III) company address;

“(IV) name, position and social security number of the employer's employees accessing the EEVS; and

“(V) such other information as the Secretary deems necessary to ensure proper use and security of the EEVS.

The Secretary shall require employers to undergo such training as the Secretary deems necessary to ensure proper use and security of the EEVS. To the extent practicable, such training shall be made available electronically.

“(ii) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual (and the individual shall provide) and shall record in such manner as the Secretary may specify:—

“(I) an individual's social security account number,

“(II) if the individual does not attest to United States nationality under subsection (c)(2) of this section, such identification or authorization number established by the Department of Homeland Security as the Secretary of Homeland Security shall specify, and

“(III) such other information as the Secretary may require to determine the identity and work authorization of an employee.

“(iii) PRESENTATION OF DOCUMENTATION.—The employer, and the individual whose identity and employment eligibility are being confirmed, shall fulfill the requirements of subsection (c) of this section.

“(iv) PRESENTATION OF BIOMETRICS.—Employers who are enrolled in the Voluntary Advanced Verification Program to Combat Identity Theft under section 307 of this title shall, in addition to documentary evidence of identity and work eligibility, electronically provide the fingerprints of the individual to the Department of Homeland Security.

“(B) SEEKING CONFIRMATION.—

“(i) The employer shall use the EEVS to provide to the Secretary all required information in order to obtain confirmation of the identity and employment eligibility of any individual no earlier than the date of hire and no later than on the first day of employment (or recruitment or referral, as the case may be). An employer may not, however, make the starting date of an individual's employment contingent on the receipt of confirmation of the identity and employment eligibility.

“(ii) For reverification of an employee with a limited period of work authorization (including Z card holder), all required verification procedures must be complete on the date the employee's work authorization expires.

“(iii) For initial verification of an employee hired before the employer is subject to the employment eligibility verification system, all required procedures must be complete on such date as the Secretary shall specify in accordance with subparagraph (d)(2)(D).

“(iv) The Secretary shall provide, and the employer shall utilize, as part of EEVS, a method of communicating notices and requests for information or action on the part of the employer with respect to expiring work authorization or status and other matters. Additionally, the Secretary shall provide a method of notifying employers of a confirmation, nonconfirmation or a notice that further action is required (“further action notice”). The employer shall communicate to the individual that is the subject of the verification all information provided to the employer by the EEVS for communication to the individual.

“(C) CONFIRMATION OR NONCONFIRMATION.—

“(i) Initial response.—The verification system shall provide a confirmation, nonconfirmation, or a further action notice of an individual's identity and employment eligibility at the time of the inquiry, unless for technological reasons or due to unforeseen circumstances, the EEVS is unable to provide such confirmation or further action notice. In such situations, the system shall provide confirmation or further action notice within 3 business days of the initial inquiry. If providing confirmation or further action notice, the EEVS shall provide an appropriate code indicating such confirmation or such further action notice.

“(ii) CONFIRMATION UPON INITIAL INQUIRY.—When the employer receives an appropriate confirmation of an individual's identity and work eligibility under the EEVS, the employer shall record the confirmation in such manner as the Secretary may specify.

“(iii) FURTHER ACTION NOTICE UPON INITIAL INQUIRY AND SECONDARY VERIFICATION.—

“(I) FURTHER ACTION NOTICE.—If the employer receives a further action notice of an individual's identity or work eligibility under the EEVS, the employer shall inform the individual without delay for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing the further action notice. The employee must acknowledge in writing the receipt of the further action notice from the employer.

“(II) CONTEST.—Within ten business days from the date of notification to the employee, the employee must contact the appropriate agency to contest the further action notice and, if the Secretary so requires, appear in person at the appropriate Federal or state agency for purposes of verifying the individual's identity and employment authorization. The Secretary, in consultation with the Commissioner of Social Security and other appropriate Federal and State agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a final confirmation or nonconfirmation. An individual contesting a further action notice must attest under penalty of perjury to his identity and employment authorization.

“(III) NO CONTEST.—If the individual does not contest the further action notice within the period specified in subparagraph (5)(C)(iii)(II), a final nonconfirmation shall issue. The employer shall then record the nonconfirmation in such manner as the Secretary may specify.