

to the appeal. The Secretary and the Commissioner may, on a case by case basis for good cause, extend this period in order to ensure accurate resolution of an appeal before him. Administrative review under this paragraph (7) shall be limited to whether the final nonconfirmation notice is supported by the weight of the evidence.

“(C) ADMINISTRATIVE RELIEF.—The relief available under this paragraph (7) is limited to an administrative order upholding, reversing, modifying, amending, or setting aside the final nonconfirmation notice. The Secretary or the Commissioner shall stay the final nonconfirmation notice pending the resolution of the administrative appeal unless the Secretary or the Commissioner determines that the administrative appeal is frivolous, unlikely to succeed on the merits, or filed for purposes of delay and terminates the stay.

“(D) DAMAGES, FEES AND COSTS.—No money damages, fees or costs may be awarded in the administrative review process, and no court shall have jurisdiction to award any damages, fees or costs relating to such administrative review under the Equal Access to Justice Act or any other law.

“(8) JUDICIAL REVIEW.—

“(A) EXCLUSIVE PROCEDURE.—Notwithstanding any other provision of law (statutory or nonstatutory) including sections 1361 and 1651 of title 28, no court shall have jurisdiction to consider any claim against the United States, or any of its agencies, officers, or employees, challenging or otherwise relating to a final nonconfirmation notice or to the EEVS, except as specifically provided by this paragraph. Judicial review of a final nonconfirmation notice is governed only by chapter 158 of title 28, except as provided below.

“(B) REQUIREMENTS FOR REVIEW OF A FINAL NONCONFIRMATION NOTICE.—With respect to review of a final nonconfirmation notice under subsection (a), the following requirements apply:

“(i) DEADLINE.—The petition for review must be filed no later than 30 days after the date of the completion of the administrative appeal.

“(ii) VENUE AND FORMS.—The petition for review shall be filed with the United States Court of Appeals for the judicial circuit wherein the petitioner resided when the final nonconfirmation notice was issued. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

“(iii) SERVICE.—The respondent is either the Secretary of Homeland Security or the Commissioner of Social Security, but not both, depending upon who issued (or affirmed) the final nonconfirmation notice. In addition to serving the respondent, the petitioner must also serve the Attorney General.

“(iv) PETITIONER'S BRIEF.—The petitioner shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the respondent, and the court may not extend these deadlines, except for good cause shown. If a petitioner fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result. The court of appeals may set an expedited briefing schedule.

“(v) SCOPE AND STANDARD FOR REVIEW.—The court of appeals shall decide the petition only on the administrative record on which the final nonconfirmation order is based. The burden shall be on the petitioner to show that the final nonconfirmation decision was arbitrary, capricious, not supported by sub-

stantial evidence, or otherwise not in accordance with law. Administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.

“(vi) STAY.—The court of appeals shall stay the final nonconfirmation notice pending its decision on the petition for review unless the court determines that the petition for review is frivolous, unlikely to succeed on the merits, or filed for purposes of delay.

“(C) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A court may review a final nonconfirmation order only if—

“(1) the petitioner has exhausted all administrative remedies available to the alien as of right, and

“(2) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

“(D) LIMIT ON INJUNCTIVE RELIEF.—Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions in this section, other than with respect to the application of such provisions to an individual petitioner.

“(9) MANAGEMENT OF EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

“(A) IN GENERAL.—The Secretary is authorized to establish, manage and modify an EEVS that shall—

“(i) respond to inquiries made by participating employers at any time through the internet concerning an individual's identity and whether the individual is authorized to be employed;

“(ii) maintain records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to employers as evidence of their compliance with their obligations under the EEVS; and

“(iii) provide information to, and request action by, employers and individuals using the system, including notifying employers of the expiration or other relevant change in an employee's employment authorization, and directing an employer to convey to the employee a request to contact the appropriate Federal or State agency.

“(B) DESIGN AND OPERATION OF SYSTEM.—The EEVS shall be designed and operated—

“(i) to maximize its reliability and ease of use by employers consistent with insulating and protecting the privacy and security of the underlying information;

“(ii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register any times when the system is unable to receive inquiries;

“(iii) to maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

(iv) to allow for auditing use of the system to detect fraud and identity theft, and to preserve the security of the information in all of the system, including but not limited to the following:

“(I) to develop and use algorithms to detect potential identity theft, such as multiple uses of the same identifying information or documents;

“(II) to develop and use algorithms to detect misuse of the system by employers and employees;

“(III) to develop capabilities to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system; and

“(IV) to audit documents and information submitted by potential employees to employers, including authority to conduct interviews with employers and employees;

“(v) to confirm identity and work authorization through verification of records maintained by the Secretary, other federal departments, states, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States, as determined necessary by the Secretary, including:

“(I) records maintained by the Social Security Administration as specified in (D);

“(II) birth and death records maintained by vital statistics agencies of any state or other United States jurisdiction;

“(III) passport and visa records (including photographs) maintained by the United States Department of State; and

“(IV) State driver's license or identity card information (including photographs) maintained by State department of motor vehicles; and

“(vi) to confirm electronically the issuance of the employment authorization or identity document and to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee. If in exceptional cases a photograph is not available from the issuer, the Secretary shall specify a temporary alternative procedure for confirming the authenticity of the document.

“(C) The Secretary is authorized, with notice to the public provided in the Federal Register, to issue regulations concerning operational and technical aspects of the EEVS and the efficiency, accuracy, and security of the EEVS.

“(D) ACCESS TO INFORMATION.—

“(i) Notwithstanding any other provision of law, the Secretary of Homeland Security shall have access to relevant records described at paragraph (9)(8)(v), for the purposes of preventing identity theft and fraud in the use of the EEVS and enforcing the provisions of this section governing employment verification. State or other non-federal jurisdiction that does not provide such access shall not be eligible for any grant or other program of financial assistance administered by the Secretary.

“(ii) The Secretary, in consultation with the Commissioner of Social Security and other appropriate Federal and State agencies, shall develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed pursuant to this paragraph and subparagraph (d)(5)(E)(i). The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records pursuant to this paragraph and subparagraph (d)(5)(E)(i).

“(iii) The Chief Privacy Officer of the Department of Homeland Security shall conduct regular privacy audits of the policies and procedures established under subparagraph (9)(D)(ii), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary and the Privacy and Civil Liberties Oversight Board any changes necessary to improve the privacy protections of the program.

“(E) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—

“(i) As part of the EEVS, the Secretary shall establish reliable, secure method,