CLIENT ALERTS & INSIGHTS

Ohio Imposes New Mandatory E-Verify Requirements on Nonresidential Construction Employers

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Key Takeaways

- Starting March 19, 2026, Ohio employers in nonresidential construction must use the federal E-Verify system to confirm that all workers on covered projects are authorized to work in the United States.
- Noncompliance with the new E-Verify mandate can result in significant penalties, including fines, disqualification from state contracts and permanent loss of business licenses for repeated or willful violations.
- Employers should promptly enroll in E-Verify, update onboarding procedures and train staff to ensure compliance with the new law. Proper recordkeeping and timely action on E-Verify results are essential to avoid costly enforcement actions.

Starting March 19, 2026, Ohio employers engaged in non-residential construction are required to use the federal E-Verify system to confirm job candidates and employees working on covered projects are authorized to work in the United States. E-Verify confirms a workers' authorization based on federal records from the Department of Homeland Security and the Social Security Administration. This new requirement is in addition to the employer's federal Form I-9 obligations.

Coverage

The E-Verify Workforce Integrity Act (the "Act") applies to employers engaged in non-residential construction, including contractors, subcontractors and labor brokers. Specifically, the law targets employers engaged in construction or renovation of any:

- Commercial building,
- Road, highway or bridge, and
- Utility or related infrastructure.

The law excludes residential construction, manufactured or mobile homes, and agricultural structures.

How to Comply

To comply, employers must do the following:

1. Enroll in the E-Verify system.
2. Once enrolled, employers create a new case for each worker by entering their information in Section 1 of Form I-9.

E-Verify will then produce one of the following results:

- If there is a match, E-Verify will then issue a final eligibility result which allows the employer to close the case.
- In the event E-Verify cannot confirm a workers' employment eligibility, a Tentative Nonconfirmation (TNC) will be issued to the employer through the E-Verify portal. The employer then must notify the worker immediately of the TNC, provide the TNC notice and allow the worker to contest the result. Employees have ten federal working days to resolve the TNC. If the TNC is not resolved, E-Verify will issue a Final Nonconfirmation to the employer. Employers must close the case once a Final Nonconfirmation result is issued. Employers should terminate employment or withdraw an offer for employment based on a case result of Final Nonconfirmation. Continued employment after a Final Nonconfirmation violates the Act and triggers serious penalties.

Employers are required by law to retain verification records (including Form I-9 and E-Verify results) for three years after the date of hire or one year after termination, whichever is longer.

Enforcement

The Ohio attorney general investigates violations of the Act through complaints. Employers can incur fines for the following:

- Failure to enroll workers in E-Verify: $250-$1,500 for subsequent violations within three years;
- Failure to act on a Final Nonconfirmation: $25,000 per violation for repeat offenses;
- Disqualification from bidding on state contracts for up to two years for multiple willful violations; and
- Permanent business license revocation if a contractor knowingly hires an unauthorized worker.

As discussed in our previous alert, many states are attempting to expand requirements and increase noncompliance penalties. Covered Ohio employers should modify their internal on-boarding processes and train responsible staff to comply with the new law.

For more information, please contact a member of Benesch's Immigration Practice Group.