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Mr. Paul Buono
Chief, Business and Foreign Workers Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD.

Re: DHS Docket No. USCIS–2025–0271, Removal of the Automatic Extension of Employment Authorization Documents

Dear Chief Buono,

The Immigrant Legal Resource Center (ILRC) submits this comment opposing the Interim Final Rule (IFR) eliminating automatic extensions of Employment Authorization Documents ("EADs"). The IFR was improvidently issued without prior notice and comment, is unsupported by data or reasoned analysis, and falsely claims that it is part of a foreign affairs exception intended for regulations which impact international policies.

The IFR impacts millions of applicants for immigration benefits in 18 different categories.[1] The rule would eliminate these noncitzens' ability to timely renew

[1] 90 Fed. Reg. 48803 (Oct. 30, 2025). The groups of petitioners and applicants for USCIS benefits impacted by the IFR who will not be eligible for auto renewal of work permission are: "Aliens admitted as refugees (A03);
• Aliens granted asylum (A05);
• Aliens admitted as parents or dependent children of aliens granted permanent residence under section 101(a)(27)(I) of the INA, 8 U.S.C. 1101(a)(27)(I) (A07);
• Aliens admitted to the United States as citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau pursuant to agreements between the United States and the former trust territories (A08);
• Aliens granted withholding of deportation or removal (A10);
• Aliens granted TPS, if the employment authorization category on their current EAD is either A12 or C19 (A12);
• Alien spouses of E–1/2/3 nonimmigrants (Treaty Trader/Investor/ Australian Specialty Worker) (A17);
• Alien spouses of L–1 nonimmigrants (Intracompany Transferees) (A18);
• Aliens who have filed applications for asylum and withholding of deportation or removal (C08); 40
• Aliens who have filed applications for adjustment of status to lawful permanent resident under section 245 of the INA, 8 U.S.C. 1255 (C09); Aliens who have filed applications for suspension of deportation under section 244 of the INA (as it existed prior to April 1, 1997), cancellation of removal pursuant to section 240A of the INA, or special rule cancellation of removal under section 309(f)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (C10);

their work permits, which are based on their underlying petition or approved status. These noncitizens have already had their data in the USCIS's systems for years because they have underlying applications in one of the 18 categories that thereby make them eligible to apply for employment authorization. USCIS has already vetted them repeatedly, and has taken biometrics and verified their identities, yet the agency bases this cancellation of auto extension of employment authorization on a supposed threat to national security. Auto extensions in these categories have already been found not to pose security risks,[2] and they are necessary in an agency that is backlogged and has experienced decimating personnel losses in 2025.

Promulgation of this rule as an interim final rule (IFR) is a blatant violation of the Administrative Procedures Act (APA)[3]. The APA requires pre-adoption notice and comment unless there is demonstrated impracticability or public interest concerns that support a good cause exception, and none presented here justifies this truncation of the public participation. The administration also purports to characterize regulation of noncitizen's employment within the United States as subject to a "foreign affairs exception," which is intended for an entirely different purpose. DHS here has decided that it is the only legitimate decision-maker of what is in the public interest (that is, not allowing the public to participate in notice and comment) because it has artificially constructed an "emergency" and an "invasion" of "[noncitizens] with malevolent intent…" who they claim pose an "ongoing and imminent threat to public safety and national security,"[4] none of which is supported by any reliable evidence in the IFR or elsewhere.

• Aliens who have filed applications for creation of record of lawful admission for permanent residence (C16);
• Aliens who have filed applications for TPS and who have been deemed *prima facie* eligible for TPS under 8 CFR 244.10(a) and have received an EAD as a ''temporary treatment benefit'' under 8 CFR 244.10(e) and 274a.12(c)(19) (C19);
• Aliens who have filed legalization applications pursuant to section 210 of the INA, 8 U.S.C. 1160 (C20);
• Aliens who have filed legalization applications pursuant to section 245A of the INA, 8 U.S.C. 1255a (C22);
• Aliens who have filed applications for adjustment of status pursuant to section 1104 of the Legal Immigration Family Equity Act (C24);
• Certain alien spouses (H–4) of H–1B nonimmigrants with an unexpired Form I–94 showing H–4 nonimmigrant status (C26); and
• Aliens who are the principal beneficiaries or derivative children of approved Violence Against Women Act (VAWA) self-petitioners, under the employment authorization category ''(c)(31)'' in the form instructions to the EAD application (C31)."

[2] DHS's new, unsupported security theory in the 2025 IFR stands in stark contrast to DHS's 2024 Final Rule, which did not identify any adverse impact of automatic extensions on USCIS's ability to conduct security checks. *See* 2024 Final Rule, 89 Fed. Reg. 101,208 (Dec. 13, 2024). This conclusion is intuitive: individuals who have already submitted extensive biographic and biometric information, been previously vetted and approved to work, established lives and employment in the United States, and are seeking only to continue working lawfully are among the least likely to pose security risks. DHS has not provided any evidence or otherwise explained why it now abandons its own recent conclusion. The 2025 IFR also ignores that DHS narrowly tailored the automatic extensions to certain applicants who applied for EAD renewals (1) in the same category of eligibility as the initial request and (2) on a timely basis, which "reasonably assured" the agency that the individual remained eligible for employment authorization and protected the program from abuse.
[3] APA, 5 U.S.C. §§ 551-559 (June 11, 1946).
[4] 90 Fed. Reg. 48813, 38815 (Oct. 30, 2025).

I. Background on ILRC

The ILRC is a national non-profit organization that provides legal trainings, educational materials, and advocacy to advance immigrant rights. The ILRC's mission is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. Since its inception in 1979, the ILRC has provided technical assistance on hundreds of thousands of immigration law issues, trained thousands of advocates, and pro bono attorneys annually on immigration law, distributed thousands of practitioner guides, provided expertise to immigrant-led advocacy efforts across the country, and supported hundreds of immigration legal non-profit organizations in building their capacity.

The ILRC publishes advisories and manuals for legal practitioners in many areas of family and humanitarian immigration law which also involve accompanying applications for employment authorization in the 18 categories impacted by this IFR.

Through our extensive network with service providers, immigration practitioners, and immigration benefits applicants, we have developed a profound understanding of the barriers faced by low-income immigrants of color seeking immigration benefits, including employment authorization. The comments that follow are gleaned from the experiences of many low-income immigrants who we and our partners serve.

These low-income non-citizens applying for benefits and employment authorization depend on uninterrupted employment authorization to support their families, secure housing, pay for transportation and medical care, and contribute to the workforce. Employers rely on these workers to meet staffing needs, comply with labor obligations, and avoid costly labor shortages. The loss of millions of workers who are currently authorized to work will destabilize the U.S. economy and heavily damage particular industries, such as construction, the hospitality industry, and health care, where immigrant workers are heavily represented.

1. The IFR fails to provide supporting data or a credible rationale for an abrupt change in policy that will negatively impact millions of employees and employers

The APA requires courts to "hold unlawful and set aside agency action, findings and conclusions found to be arbitrary, capricious and an abuse of discretion, or otherwise not in accordance with law; [or] without observance of procedure required by law."[5] The IFR is arbitrary and capricious and should be withdrawn. Under the APA, a rule should also explain why a rule is needed, what it would accomplish, and what data, research, analyses, and assumptions were used to develop the rule.[6] This IFR's rationale is a thinly disguised political agenda intended to harm immigrants that fails to submit supporting data or reasoned analysis.

[5] 5 U.S.C. § 706(2)(A)(D).
[6] 5 U.S.C. § 553(c).

This rule purports to remedy an amorphous danger to national security because it will no longer allow automatic extensions of employment authorization to 18 groups of noncitizens who have already been screened and vetted by DHS at the time they initially applied for an immigration benefit and employment authorization. The government claims, without credible evidence, that the group of impacted noncitizens eligible for these extensions of employment authorization are unknown individuals that present threats and that they "pose a security vulnerability that could allow bad actors to continue to work and generate income to potentially finance nefarious activities that post an imminent threat to the American public."[7] This rationale is wildly speculative and fails to support a reasoned analysis for an abrupt change in policy. In reality, these noncitizens are already in the USCIS system because they have applied for one of 18 benefits applications listed in the IFR,[8] each of which has its own screening and security system. Every one of these individuals' information is already available to the government. Their information has been in the government's security systems for years (because that is how long these applications take to process), including their location, biographic information, residential and employment history, fingerprints, photos, and identity documents. They are not unknown, untested individuals.

Among the groups impacted are persons already admitted, and thus exhaustively screened through government vetting systems, in the categories of approved refugees and asylees, as well as persons who apply for permanent residence through close U.S. citizen and permanent resident relatives. These categories represent millions of persons.[9] Also impacted by the IFR are persons who have approved petitions under the Violence Against Women Act who have been the victims of domestic violence and those who have been granted withholding or Temporary Protected Status (TPS), who similarly have been through years of prior applications and USCIS screenings. These groups, as well as the others named in the rule, have already been in the government's system for multiple years because the process takes that long, and each stage requires rigorous processing and screening before there is a final approval. DHS's characterization of the persons impacted by the IFR as untested and "dangerous" to the public is false and unsupported by any facts in the IFR.

In addition to blatantly violating the Administrative Procedures Act, the IFR ignores current adjudication backlogs and extreme processing delays. The IFR also ignores the effects of this administration's decimation of the federal workforce and the longest shutdown of government operations in history.[10] DHS

[7] 90 Fed. Reg. 48808 (Oct. 30, 2025).
[8] See fn. 1.

[9] USCIS, Immigration and Citizenship Data, shows that 3,201,071 applications for adjustment to permanent residence were filed in Fiscal Year 2024, https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data?topic_id%5B%5D=33655&ddt_mon=&ddt_yr=&query=&items_per_page=10 . Over 100,000 approved refugees were admitted in 2024, USCIS, https://ohss.dhs.gov/topics/immigration/refugees/annual-flow-report/fy-24-refugees-flow-report. These represent just a small portion of the total number of persons impacted by the loss of employment authorization in the 18 categories enumerated in the rule.

[10] Over 260,000 federal workers across government agencies had been fired or resigned by May 2, 2025. Reuters, *US Federal Employment Drops Again as DOGE Cuts Stack Up* (May 2, 2025), https://www.reuters.com/business/world-at-work/us-federal-employment-drops-again-doge-cuts-stack-up-2025-05-02/. During the shutdown of the federal government from October 1, 2025 to November 14, 2025, 670,000 workers were furloughed while another 730,000 were working without pay, Federal News Service, *Federal Government Workers Question Whether the Longest Government Shutdown Was Worth Their Sacrifices*, (Nov. 13, 2025), https://www.pbs.org/newshour/politics/the-worst-time-to-be-a-federal-employee-workers-question-whether-the-

claims it has improved policies so that processing times will be reduced, yet no evidence is provided to support that claim. Processing times remain backlogged,[11] and the reduced and beleaguered federal work force is not in a position to produce a miracle.[12] The elimination of automatic extensions – a benefit conferred only upon the receipt of an application for work authorization renewal – will do nothing to ease backlogs as all applicants who would have benefited from automatic extensions will still need to file renewal applications.

The IFR also ignores the economic impact of millions of current employees who happen to be noncitizens who will lose their jobs. In fact, DHS claims that although USCIS is the sole agency with the statistics on the number of people who currently hold status in the 18 categories that will lose work authorization that, "DHS is unable to produce a tenable population estimate for the future population that may be affected by this IFR,"[13] and that "DHS …is not able to quantify these impacts due to uncertainty."[14] These statements defy belief. Even if they were true, the government cannot bypass the necessity to provide economic analysis because they wish to and it is convenient for their political agenda. DHS is the only agency that can estimate how many persons are in these 18 categories of visas, because they hold the underlying petitions and applications that make these persons eligible for employment authorization. Without supporting data, this IFR lacks a credible rationale and should be overturned.

The IFR disregards reliance interests of employers and employees that DHS itself recognized and instead espouses an emotional and unsupported security rationale, all while unlawfully bypassing notice-and-comment. The result is a rule that will critically damage the U.S. economy, destabilize the workforce, disrupt employer operations, and inflict severe harm on workers and their families due to the loss of work authorization. DHS must withdraw the IFR in full and reinstate the automatic extension policy.

2. DHS violates the APA by issuing this as an Interim Final Rule without prior notice and comment because it lacks good cause and is not in the public interest

DHS made the IFR effective immediately, without providing the notice or opportunity to comment required by the APA. DHS claims this is necessary because public notice and comment is supposedly contrary to public interest due to "potentially nefarious activities that pose an imminent threat to the

shutdown-was-worth-their-sacrifices . The attacks on the federal employees have left a demoralized workforce even after shutdown ended. As an officer of the National Federation of Federal Employees described, "I don't think anybody feels good right now. I think everybody feels extremely drained, and they're just waiting for the next blow to come from this administration," KUNC, *Federal Worker Concerns Linger After Government Reopens* (Nov. 14, 2024), https://www.kunc.org/regional-news/2025-11-14/federal-workers-concerns-linger-after-government-reopens .

[11] USCIS, processing times, https://egov.uscis.gov/processing-times/. The government's statistics, which are only estimates of what time it takes 80% of applications in a enumerated category to be adjudicated, currently show that 10.5 months is expected for adjudication in a catch all "all other categories" of employment authorization, while applicants with approved refugee status must wait 20.5 months, and a few categories such as applicants for adjustment of status must wait "only" 7 months for an adjudication of employment authorization. These processing times are before the impact of the shutdown and do not consider the hemorrhaging of the federal workforce under current policies.

[12] *See* fn. 10.

[13] 90 Fed. Reg. 48817 (Oct. 30, 2025).

[14] *Id.*

American public."[15] DHS has not provided reliable evidence of any security risks caused by automatic extensions.[16] DHS therefore cannot satisfy the good cause exception to avoid notice-and-comment rulemaking.

There is substantial litigation and scholarship regarding "good cause" and other notice and comment exemptions, and the standards are sometimes improperly claimed by agencies who want to speed up the process without public input, which is the case here with DHS and this IFR.[17] The overarching principle of the APA is that the statute strongly favors inclusion of notice and comment and that exemptions are narrowly construed to favor the strong interest in public participation in rulemaking.[18]

The IFR impacts millions of noncitizens and their employers because it covers all persons seeking employment authorization under 18 different types of pending immigration benefits applications. As noted, those losing employment authorization renewal include those who have filed applications for permanent residence (I-485) and noncitizens who have already been approved for asylum and refugee status.[19] The agency's use of an IFR was disingenuous and is based on unsupported claims of "national security" interests.

DHS states that the prior administration's policies artificially created a crisis by allowing too many persons to apply for asylum and Temporary Protected Status, who then sought accompanying employment authorization.[20] The IFR acknowledges that severe backlogs existed at USCIS because of staffing levels, thus necessitating a change to automatic extensions.[21]

The IFR fails to acknowledge that in 2025, the staffing reductions at USCIS due to cuts imposed by this administration's Department of Government Efficiency (DOGE) and its attack on federal employment put the USCIS's ability to timely adjudicate applications under immense strain.[22] This single most important

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[15] 90 Fed. Reg. 48813 (Oct. 30, 2025).

[16] *Cap. Area Immigrants' Rts. Coal. v. Trump*, 471 F. Supp. 3d 25, 46 (D.D.C. 2020) (good cause exception not satisfied where agencies only provided a single example of potential adverse consequences and "offer[ed] no other data or information that persuasively supports their prediction of a surge" in border crossings before rule took effect. The speculative 'threat' in the IFR is unsupported by DHS save for a single instance of violence that happened in June, 2025, when an Egyptian citizen threw incendiary devices at a peaceful group of marchers in Boulder, Colorado, injuring more than a dozen people. Based on that one incident, DHS makes the leap in reasoning that all extensions of employment authorization for all people is an imminent threat to national security. Basing an entire policy shift that impacts millions of people on a single incident by an individual who acted alone and was charged as such is illogical, illegal, and nonsensical. *U.S. v. Mohamed Sabry Soliman* (Case No. 1:25-cr-00194-JLK) D. Colorado (June 24, 2025). The attacker was indicted as an individual on multiple crimes regarding the incident and was described as acting alone,

[17] Kyle Schneider, Stanford Law Review, *Judicial Review of Good Cause Determinations Under the Administrative Procedures Act* (Jan. 2021).

[18] Congress rejected proposals that included the phrase "impracticable because of unavoidable lack of time or other emergency," for example. See APA: Legislative History, 79th Cong. 1944-46 at 157, 168. See also, Juan L. Kavilla, *The Good Cause Exemption to Notice and Comment Rulemaking Under the Administrative Procedure Act*, 3 ADMIN. L.J. 317 (1946).

[19] 90 Fed. Reg. 48803-04 (Oct. 30, 2025) lists the 18 categories of applicants impacted.

[20] 90 Fed. Reg. 48805 (Oct. 30, 2025).

[21] *Id.*

[22] CBS News, *Trump Administration Fires Over 400 DHS Employees as Mass Firings Continue* (Feb. 16, 2025) https://www.cbsnews.com/news/trump-administration-fires-over-400-dhs-employees/ International and Business

fact about the current condition of the U.S. government is not even mentioned in the IFR. There have been cuts across USCIS due to firings of probationary employees, encouragement of early retirement and resignations, and reductions in force. There is also a hiring freeze that this administration put into effect in 2025. The ability of USCIS to timely process applications is radically impacted by these reductions in employees. Even the official processing times of the agency show that processing of I-765s for employment authorization range from an average of 7 months for some categories to as long as 20 months or more.[23]

DHS has not satisfied the "meticulous and demanding" standard for invoking the APA's "good cause" exception.[24] That narrow exception allows an agency to bypass notice and comment only where it "for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."[25] While DHS claims that notice and comment would be impracticable and contrary to the public interest, it relies on an unsupported security rationale.[26]

DHS has not provided evidence of any security risks caused by automatic extension and therefore cannot satisfy the good cause exception to avoid notice-and-comment rulemaking.

The IFR rests on a single asserted justification: the desire to complete vetting and security checks before approving an individual's work permit renewal.[27] DHS offers no other policy rationale for eliminating automatic extensions. DHS's sole rationale suffers from numerous problems and reveals a significant mismatch between the concern asserted and the real-world purpose and impact of automatic extensions.[28] The IFR stands in stark contrast to DHS's Final Rule in 2024, which did not identify any adverse impact of automatic extensions on USCIS's ability to conduct security checks.[29]

For nearly a decade, USCIS has automatically provided an extension of some length to some groups of workers with expiring EADs.[30] In the 2024 Final Rule, DHS invited stakeholders to rely on a permanent 540-day extension and explicitly sought comment on making the extension permanent to provide

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Services Group, *DHS and USCIS Facing Staffing Cuts* (April 15, 2025), https://bizlegalservices.com/2025/04/15/dhs-and-uscis-facing-staffing-cuts/ .

[23] USCIS, processing times, in November 2025 showed that an approved refugee could wait as long as 20 months for an adjudication of employment authorization, while many other categories range from 7 -10 months of processing time, https://egov.uscis.gov/processing-times/ .

[24] *Sorenson Commc'ns Inc. v. FCC*, 755 F.3d 702, 706 (D.C. Cir. 2014).

[25] 5 U.S.C. § 553(b)(3)(B).

[26] 90 Fed. Reg. at 48,813 (Oct. 30, 2025).

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[27] IFR, 90 Fed. Reg. at 48799–800, 48803, 48806–17, 48819 (Oct. 30, 2025).

[28] *Dep't of Com. v. New York*, 588 U.S. 752, 755 (2019) (decision making arbitrary and capricious where there was "a significant mismatch between" the agency's decision and the sole rationale provided for it).

[29] DHS, *Automatic Extension Period of Employment Authorization for Certain Renewal Applicants*, 89 Fed. Reg. 101,208, 101,209 (Dec. 13, 2024).

[30] 2016 Final Rule, 81 Fed. Reg. at 82,455 (Oct. 30, 2025).

regulatory certainty and workforce stability.[31] Employers and workers reasonably structured hiring, staffing, payroll planning, and employee retention around that assurance.

DHS's theory that automatic extensions hamper security vetting lacks evidentiary support. The IFR identifies no evidence that automatic extensions have compromised security, nor any data showing that eliminating extensions would meaningfully enhance screening. The IFR provides no statistics showing that this system allowed security risks to persist or resulted in later security-based denials. The absence of any such evidence demonstrates that the problem does not exist. In support of its security theory, as stated, DHS cites only a single incident without explaining how eliminating automatic extensions would have prevented it.[32] And even if there were any connection to automatic extensions, a single anecdote cannot substitute for evidence, particularly when weighed against millions of law-abiding workers who file timely EAD renewal applications and submit themselves to regular vetting and security checks. DHS's notion that an otherwise-authorized worker must be preemptively stripped of the ability to work because they might someday collect money to send abroad to fund "nefarious activities," is not supported by the evidence.

3. DHS's IFR is invalid because it falsely relies on the APA's "foreign affairs exception"

The government uses multiple false interpretations to justify the promulgation of this IFR without prior notice and comment. DHS claims, despite precedent to the contrary, that the administrative functions of USCIS of adjudicating immigration benefits within the United States somehow is under the edict of the current Secretary of State, who has decreed without support that APA rules do not apply if a rule involves "military or foreign affairs of the United States."[33] DHS relies on this edict to exempt itself from normal rulemaking because it characterizes the adjudication of employment authorization for persons in the United States as within the "foreign affairs function of the United States."[34]

This exception comes with a "high bar."[35] In particular, courts have warned against "[t]he dangers of an expansive reading of the foreign affairs exception" in the immigration context, where inevitable "incidental foreign affairs effects" would "eliminate[] public participation in this entire area of administrative law."[36] DHS cannot meet that high bar here, as the potential effects on international relations that it puts forward are all speculative, tenuous, or otherwise reliant on unsupported claims of security risks.[37] Work authorization is, by definition, wholly focused on domestic life in the United States

[31] DHS, *Automatic Extension Period of Employment Authorization for Certain Renewal Applicants,* 89 Fed. Reg. 101,208, 101,209 (Dec. 13, 2024).
[32] The speculative 'threat' is unsupported by DHS save for reference, to a single instance of violence that happened in June, 2025. *See* fn. 16.
[33] U.S. Department of State, Determination, *Foreign Affairs Functions of the United States*, 90 Fed. Reg. 12200 (Mar. 14, 2025).
[34] 5 U.S.C. § 553(a)(1).

[35] *Cap. Area Immigrants' Rts. Coal. v. Trump*, 471 F. Supp. 3d 25, 55 (D.D.C. 2020).
[36] *City of New York v. Permanent Mission of India to United Nations*, 618 F.3d 172, 202 (2d Cir. 2010).
[37] 90 Fed. Reg. at 48,814(Oct. 30, 2025).
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and the ability of foreign nationals to work for U.S. employers. Any connection to foreign affairs is too remote for the IFR to qualify for the foreign affairs exception to APA notice and comment procedures.

4. The IFR fails to estimate required data, ignores economic impact and DHS operational realities

DHS fails to meaningfully discuss how the agency plans to address current and future EAD processing backlogs as it removes this critical agency tool. It does not provide supporting economic data for the IFR. The DHS's assertion that renewal applicants' "proper planning" could avoid lapses ignores operational realities. DHS acknowledges that USCIS's backlogs and resulting lapses in employment authorization are not the fault of EAD renewal applicants.[38] However, the IFR incorrectly states that "proper planning" by renewal applicants could avoid gaps in employment authorization.[39] The backlog of applications at the agency currently does not support this assertion.

If "proper planning" means filing more than six months early, then DHS ignores that although USCIS may accept EAD renewals filed more than 180 days before expiration, the agency issues overlapping—not consecutive—validity periods, effectively cutting into the amount of time the EAD is valid and forcing applicants into an ever-earlier renewal cycle. The IFR fails to acknowledge this problem or propose a workable alternative of issuing consecutive validity periods for very early filed renewal applications. Moreover, EAD renewal applicants cannot "properly plan" for every unforeseen circumstance that may affect USCIS's processing times, including drastic reductions in the number of federal employees and government shutdowns.

Applicants should not be punished for the agency's failure to process applications in a timely manner and by terminating the policy of automatically extending work authorization, DHS has created a problem – one that had a solution until the issuance of the IFR – while ignoring the reality of its own application backlog.

5. The IFR ignores significant reliance interests

The IFR also disregards the significant reliance interests that DHS itself reaffirmed less than one year ago when it issued a permanent 540-day automatic extension, and which have existed since the agency's issuance of the 2016 Final Rule.[40] For nearly a decade, USCIS has automatically provided an extension of some length to some groups of workers with expiring EADs.[41] Employers and workers reasonably structured hiring, staffing, payroll planning, and employee retention around that assurance.

DHS barely acknowledges—but does not meaningfully consider—the reliance interest of immigrants and their employers. Yet, DHS entirely failed to consider the reliance interests of other stakeholders who rely on regulatory stability preventing immigrant communities from suffering government-caused lapses in employment authorization. These other stakeholders include state, city, and local governments; entire

[38] 89 Fed. Reg. 101,208, 101,209 (Dec. 13, 2024); 90 Fed. Reg. at 48,817 (Oct. 30, 2025).
[39] 90 Fed. Reg. at 48,819-20 (Oct. 30, 2025).
[40] 81 Fed. Reg. at 82,455 (Nov. 18, 2016).
[41] 89 Fed. Reg. at 101,230 (Dec. 13, 2024).

regional economies; educational institutions; healthcare providers; legal and social service providers; and the broader public, among others.

DHS cannot now abruptly withdraw the permanent 540-day automatic extension without addressing these significant reliance interests. Doing so violates core administrative law principles.[42]. DHS failed to properly consider these significant reliance interests when issuing the IFR.

6. The IFR fails to consider feasible alternatives

DHS fails to meaningfully consider feasible, less disruptive alternatives, in violation of the APA. For instance, DHS claims that "proper planning" by renewal applicants could ensure no lapses in work authorization, yet this fails to recognize that DHS does not issue consecutive EADs. If DHS truly believed early filing was the solution, it was required to consider — and explain why it rejected — the obvious alternative of issuing consecutive EAD validity periods so that applicants could file early without losing work authorization time and money. This straightforward fix would allow individuals to apply far in advance, provide USCIS a longer adjudication window, and preserve the full period of authorized employment. DHS's failure even to address this option underscores the inadequacy of its "proper planning" rationale and confirms that the agency did not meaningfully consider reasonable, less disruptive alternatives.

Nor does DHS explain why it cannot simply continue to conduct vetting during the renewal process and deny renewal of employment authorization if "potential hits of derogatory information" arise—a process it already uses.[43] With or without the automatic extension, the individual remains in the United States; the only question is whether they are forced out of lawful employment while being vetted. In other words, DHS already has a system that protects security while letting people keep working, and it has not explained why it cannot keep using it. Rejecting straightforward, commonsense solutions in favor of a rule that causes sweeping economic harm and predictable worker and employer displacement is the definition of arbitrary and capricious decision making.

[42] *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020) (agency must meaningfully consider reliance interests when abandoning prior policy).
[43] 90 Fed. Reg. at 48,804 (Oc. 30, 2025) ("If the application is denied, the automatically extended employment authorization and/or EAD generally is terminated on the day of the denial."); *id.* at 48,806, 48,808–10 (citing concerns about "potential hits of derogatory information").

Conclusion

For all of these reasons, DHS should withdraw the 2025 IFR in its entirety. The IFR violates the APA because it is arbitrary and capricious, failed to consider public notice and comment based on falsely characterized exceptions, failed to consider reasonable alternatives. and is unsupported by the factual and economic record. It rests on speculation and will cause predictable, major harm to workers, families, employers, and the broader economy.

Submitted by,
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