U.S. Chamber of Commerce

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Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: Removal of the Automatic Extension of Employment Authorization Documents
CIS No. 2826–25; DHS Docket No. USCIS–2025–0271
RIN 1615–AD05, 90 Fed. Reg. 48799 (Oct. 30, 2025)

Dear Sir or Madam:

The U.S. Chamber of Commerce (U.S. Chamber), the world's largest business organization representing employers of every size and across every sector of the economy, respectfully submits the following comments in response to the above-captioned interim final rule (IFR) published by the Department of Homeland Security (the Department or DHS), U.S. Citizenship and Immigration Services (USCIS), on October 30, 2025. The Department's decision to eliminate automatic extension of Employment Authorization Documents (EADs) through an IFR violates the Administrative Procedure Act (APA) as the Department has not demonstrated the requisite good cause to bypass the notice and comment requirement. The IFR also omits the necessary economic analysis or regulatory impact assessment, despite its sweeping implications for employers, workers, and the broader economy, especially since the IFR will have immediate and significant impact across many non-citizen employment categories.

The Department cites national security as the reason for the rulemaking and for publishing the new rule as an IFR. The U.S. Chamber recognizes the importance of the Trump Administration's success at securing the border and supports enhancing interior security. However, the IFR has not articulated a reason for why allowing work authorization to lapse for legally present individuals who previously underwent a security screening enhances our national security.

Discussion

I. The IFR's Procedural Violations

A. The IFR fails to demonstrate good cause for bypassing notice and comment.

As a general matter, the APA requires agencies to provide notice and an opportunity for public comment before finalizing a rule. The statute does include a "good cause" exception that allows an agency to bypass notice and comment, but it requires the agency to find that such

procedures are "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. § 553(b)(4)(B). *See also See Util. Solid Waste Activities Grp. v. EPA*, 236 F.3d 749, 754–55 (D.C. Cir. 2001); *California v. Azar*, 911 F.3d 558, 575–78 (9th Cir. 2018); *United States v. Reynolds*, 710 F.3d 498, 507–14 (3d Cir. 2013).[1]

Here, the Department offers no evidence of any such finding. Although the IFR references "national security" several times but does not articulate a sufficient nexus between automatically extending the work authorization of persons already residing in the United States legally and heightened risk to national security or public safety.

The preamble states:

> These automatic extensions, however, resulted in a substantial number of aliens being granted automatically extended EADs and being permitted to continue working lawfully without the completion of appropriate vetting and screening of such aliens relating to their renewal applications.
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> . . . DHS believes the benefits of this rule to the United States outweigh any reliance interests held by the alien, his or her family, the employer or the public at-large in the automatic extensions of EADs to avoid temporary lapses in employment authorization and/or EADs. The Federal Government has a duty to protect U.S. national security, public safety, and the integrity of immigration benefits, and more specific to this rule, to better ensure that employment authorization is provided in a manner consistent with prohibiting the unlawful employment of aliens and is granted only after a determination is made that the alien continues to be eligible and, when applicable, continues to merit a favorable exercise of discretion.

90 Fed. Reg. at 48807, 48810.

The Department's position is belied by the fact that individuals whose work authorization are eligible for automatic extension necessarily are in the United States legally and have been vetted by the government already at least once. In particular, all such individuals undergo a background investigation before receiving their EAD. Some even may have been investigated further as part of their underlying immigration application, which is the basis for having an EAD. The IFR does not explain why that previous vetting is insufficient to guard against risks to national security and public safety.

[1] The Department justifies bypassing the notice and comment requirement by invoking the Foreign Affairs Exception under 5 U.S.C. § 553(a)(1). *See* 90 Fed. Reg. at 48814. However, just as the Department does not articulate a nexus to national security, it does not explain ***how*** not allowing legally present aliens to work implicate U.S. foreign policy or foreign affairs.

Finally, the removal of automatic extensions will create enforcement challenges. When legally authorized workers lose their status because of administrative delays, some may feel compelled to engage in document or identity fraud to sustain their livelihood. Driving legal workers who remain legally present in the United States into an underground economy will create only more national security concerns. It also will create unnecessary compliance risks for employers who may or may not discover the fraud even with tools such as E-Verify.

By issuing this rule as an interim final rule, DHS has excluded stakeholders from meaningful participation, undermining transparency and accountability.

B. The IFR does not assess regulatory impact

The IFR contains no economic analysis or regulatory impact assessment, despite its sweeping implications for employers, workers, and the broader economy. Executive Orders, the APA and other statutes, and longstanding administrative practice require agencies to evaluate and disclose the economic consequences of significant regulatory actions, including the impact on small businesses. *See, e.g.,* Regulatory Planning and Review, Executive Order 12866 (Sept. 30, 1993); Regulatory Flexibility Act (RFA), codified at 5 U.S.C. § 603 (requiring analysis at the proposed rule stage of "significant economic impact on a substantial number of small entities.").

The Department even acknowledges that it " . . . is aware of the importance of employment authorization and evidence of employment authorization for applicants' and their families' livelihoods, as well as their U.S. employers' continuity of operations and financial health." 90 Fed. Reg. at 48817. Yet, the IFR is devoid of any economic analysis or regulatory impact assessment, despite its recognition of the rule's sweeping implications for employers, workers, and the broader economy.

By failing to provide a regulatory impact analysis or a meaningful assessment of the relevant of consequences and impacts, the Department is depriving stakeholders of critical information necessary to assess compliance costs and operational risks. This omission violates principles of reasoned decision-making and renders the rule deficient under the APA.

II. Adverse Impact on Businesses and Individuals

A. The IFR will pose significant financial burden on American businesses.

The IFR adversely impacts the U.S. Chamber's member companies of all sizes and across various sectors.[2] The automatic extensions are critical to ensuring business continuity only because of the government's chronic and persistent processing delays. When the Department first

[2] Some estimates suggest billions in economic loss from workforce disruption and turnover costs, and hundreds of thousands—possibly over one million —individuals and their families who will lose their means of livelihood.

promulgated a 180-day EAD automatic extension in 2017, the purpose was to "prevent gaps in employment authorization for individuals who have timely filed for renewal but whose applications remain pending due to processing delays." The Department noted that this measure was necessary to reduce workforce disruptions and economic harm caused by adjudication backlogs. 81 Fed. Reg. 82398, 82455 (Nov. 18, 2016). In 2022, the Department temporarily extended the automatic extension period from 180 to 540 days, 87 Fed. Reg. 23207 (May 4, 2022), and it made the 540-day extension permanent in 2024. 89 Fed. Reg. 101208 (December 13, 2024).

To be clear, the U.S. Chamber would prefer timely adjudication of EAD renewal and of the underlying immigration applications so that automatic extension becomes unnecessary. Under the current regulatory framework, the impacted categories of EAD are not eligible for "premium processing" even if the employer or employee is willing to pay for expedited processing. Historically, the regulatory framework governing EAD adjudication reflected a commitment to timely processing of work authorization. Indeed, even though there was no automatic extension prior to 2017, there was a regulatory mandate on USCIS and its predecessor, Immigration and Naturalization Service (INS), to adjudicate EAD applications including renewals within 90 days and to issue an interim EAD if the government did not comply with that timeline. 8 CFR 274a.13(d) (2016). The automatic 180-day extension replaced the 90-day regulatory mandate only because the government could not comply with its own timeline.

Presently, EAD renewals can take six to nine months and sometimes even upwards of a year. The IFR will lead to severe economic ramifications to employers, including an exacerbated talent shortage, disruption to business operations, and diminished productivity. The affected employees range from senior executives to subject matter experts to the rank-and-file workers who make sure that production stays on schedule. In addition, the IFR will add unnecessary burdens and costs especially to smaller companies that do not have an in-house legal department. At a time when the nation is striving to increase production and grow our economy, sidelining legally authorized workers due to government processing delays is counterproductive and detrimental.

B. The IFR can be devastating to individuals and their families.

The Department actually recognizes that "[a]liens, their families, and employers may have relied on the automatic extensions to . . . avoid lapses in employment authorization that may be detrimental to the alien, their family's finances, and their employer's operations . . . However, DHS believes that the weight of these interests is significantly diminished by various factors, and therefore, that the government's interests and policy concerns underlying this rulemaking outweigh these interests." 90 Fed. Reg. 48809. The Department further concedes that "the loss of employment authorization for asylum applicants may pose additional challenges given that they may be in a precarious financial situation due to circumstances such as fleeing persecution in their home country." *Id.* at fn. 111. The Department "acknowledges that that a valid EAD may be necessary for certain aliens, such as for asylees and TPS beneficiaries, for proof of identity or immigration status to establish identity for purposes such as obtaining a REAL ID-compliant driver's license or identification card." *Id.* at fn. 112.

The U.S. Chamber and its members understand that there can be no economic security without national security. We reiterate our support for the current Administration's efforts that led to securing the borders. That said, the U.S. Chamber disagrees with the IFR's conclusion that the government's interests in ending automatic EAD extension outweigh the detriment to the employees and their families, not to mention the loss that the American economy would sustain if hundreds of thousands were to lose work authorization. As detailed above, the IFR does not explain how letting EADs lapse because of slow processing enhances U.S. national security, but the impacted individuals and their families are not abstract statistics but are real people, lawfully present and properly vetted previously, who will suffer devastating consequences.

Conclusion

Unless and until the Department reinstates the 90-day adjudication mandate and the policy of granting interim work authorization if it fails to meet that timeline, the regulation granting automatic extensions should remain in effect. Creating gaps in work authorization for individuals who are legally present in the United States and whom the U.S. government has vetted previously does little to enhance our national security but will pose severe adverse economic and humanitarian consequences to employers and employees.

Respectfully submitted,

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U.S. Chamber of Commerce