



June 6, 2025

The Honorable Kristi Noem
Secretary of Homeland Security
2707 Martin Luther King Jr. Avenue, S.E.
Washington, D.C. 20528

Re: Request for guidance for employers following U.S. Supreme Court's order in
Noem v. Svetlana Doe, et al., Docket No. 24A1079 (May 30, 2025)

Dear Secretary Noem:

The Chamber of Commerce of the United States of America ("the Chamber") respectfully seeks guidance from the Department of Homeland Security ("the Department") regarding our members' obligations to reverify continued employment eligibility of, or to terminate, if necessary, their employees who are affected by the U.S. Supreme Court's order upholding the Department's termination of the "CHNV" parole program. Specifically, our members need clear guidance on 1) how to identify which employees may no longer be eligible to work in the United States following the Court's order, and 2) when to reverify, and if legally required, terminate such employees. This could take the form of a formal guidance letter, FAQs on the Department's website, or another method preferred by the Department.

In making this request, the Chamber reiterates its support for the Administration's objectives of securing our nation's borders and restoring order to our immigration system. The impetus for this request for guidance is to ensure our members' strict compliance with all applicable regulations while also protecting the rights of those who are authorized to work under our nation's immigration laws.

- 1. The Chamber's members need guidance to identify "CHNV" Parolees impacted by the Supreme Court's order.*

U.S. employers are required to verify the identity and work authorization of all newly hired employees, and attest to the results of the verification on Form I-9. 8 C.F.R. § 274a.2(a)(2). In the case of temporary workers, the Form I-9 captures, *inter alia*, the expiration date of the authorization period, and the title, issuing authority, serial number and expiration date of the document that the employee presents to demonstrate identity and work authorization. For parolees, the document most likely is an Employment Authorization Document ("EAD") that the Department issues. The employer uses the expiration date on the EAD to track expiration of work

authorization. Upon expiration, the employer must reverify whether the employee has obtained continued right to work in the United States. 8 CFR 274a.2(b)(1)(vii). The Form I-9 does not capture the employee's basis for temporary employment authorization, such as parolee status. Document retention is also optional, 8 CFR 274a.2(b)(3), but even if the employer retains a copy of the EAD, the only additional data visible on the Employment Authorization Document ("EAD") are the fact that the employee is parolee (Category C-11) and the country of birth, not citizenship. Neither the EAD nor the Form I-9 specifies the underlying parole program (such as CHNV, humanitarian, national interest, etc.).¹

Therefore, to comply with their obligation to maintain legal workforce, our members must have a way to identify employees whose work authorization is based on a very specific program for parolees from Cuba, Haiti, Nicaragua, and Venezuela (collectively "CHNV"), which was terminated as of April 24, 2025, per the Department's notice published via 90 Fed Reg. 13611 (Mar. 25, 2025).² Under the current regulatory framework, employers do not have the ability to identify these employees with various validity dates printed on their individual EAD cards. There are additional documents that employers may request (such as a Form I-94) from employees to ascertain "CHNV" parole status, but employers also must be cautious when asking employees for additional information or documents based on perceived citizenship or national origin lest they run afoul of the laws prohibiting discrimination or "unfair documentary practices." See 8 U.S.C. § 1324b(a)(6); 28 C.F.R. § 44.200(a)(3).

The Chamber therefore seeks the Department's guidance regarding what additional information our members may request from their employees to identify employees whose work authorization are now deemed to have expired on April 24, 2025, pursuant to the Supreme Court's order.

2. Our members need to know when they must reverify or terminate affected employees once given guidance on how to identify them.

Immigration regulation requires employers to reverify expired work authorization "not later than the date work authorization expires[.]" 8 CFR 274a.2(b)(1)(vii). In the case of the CHNV parole, the Department's notice of March 25, 2025, terminated work authorization effective April 24, 2025. However, a sequence of judicial challenges delayed implementation of the Department's notice of March 25 with the Supreme Court bringing finality to the issue on May 30, 2025.

¹ Some of our members have received notification through the E-Verify. However, not all U.S. employers participate in E-Verify.

² "CHNV" refers to a very specific program implemented during the Biden Administration. Not all parolees from these countries are part of the program. For example, a person from these countries may have been paroled into the United States based on an individual humanitarian assessment by the Department.

Our members now must identify CHNV parolees not previously identified. Those determined to lack continued work authorization will be terminated. At the same time, our members will investigate thoroughly and responsibly so work-authorized individuals are not deprived of their right to work mistakenly. While our members are prepared to act with due haste, this process will require some time even after they receive the requested guidance from the Department.

The Chamber therefore seeks the Department's guidance with respect to the timing of reverification and termination (if appropriate) of employees affected by the Supreme Court's order.

Thank you for your kind attention and response to the foregoing questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a stylized flourish at the end.

Neil L. Bradley
Executive Vice President, Chief Policy Officer,
and Head of Strategic Advocacy
U.S. Chamber of Commerce