Billing Code: 9111-97

**DEPARTMENT OF HOMELAND SECURITY**

**8 CFR Part 274a**

**[CIS No. 2826-25; DHS Docket No. USCIS-2025-0271]**

**RIN 1615-AD05**

# Removal of the Automatic Extension of Employment Authorization Documents

**AGENCY:** U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

**ACTION:** Interim final rule ("IFR") with request for comments.

---

**SUMMARY:** This IFR amends DHS regulations to end the practice of automatically extending the validity of employment authorization documents (Forms I-766 or EADs) for aliens who have timely filed an application to renew their EAD in certain employment authorization categories. The purpose of this change is to prioritize the proper vetting and screening of aliens before granting a new period of employment authorization and/or a new EAD. This IFR does not impact the validity of EADs that were automatically extended prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] or which are otherwise automatically extended by law or Federal Register notice.

**DATES:** This IFR is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments must be received on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The electronic Federal Docket Management System will accept comments prior to midnight Eastern time at the end of that day.

**ADDRESSES:** You may submit comments on the entirety of this IFR, identified by DHS Docket No. **USCIS-2025-0271**, through the Federal e-Rulemaking Portal:

http://www.regulations.gov. Follow the website instructions for submitting comments.

Comments must be submitted in English, or an English translation must be provided. Comments submitted in a manner other than via http://www.regulations.gov, including emails or letters sent to DHS or USCIS officials, will not be considered comments on the proposed rule and may not receive a response from DHS. Please note that DHS and USCIS cannot accept any comments that are hand-delivered or couriered. In addition, USCIS cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. USCIS is also not accepting mailed comments at this time.

If you cannot submit your comment by using http://www.regulations.gov, please contact Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by telephone at (240) 721-3000 for alternate instructions.

**FOR FURTHER INFORMATION CONTACT:** Business and Foreign Workers Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, DHS, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone (240) 721-3000.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

**Table of Abbreviations**

APA—Administrative Procedure Act

CBP—U.S. Customs and Border Protection

CFR—Code of Federal Regulations

CRA - Congressional Review Act

DHS—U.S. Department of Homeland Security

EAD—employment authorization document

E.O.—Executive Order

Form I-765—Application for Employment Authorization

FY—Fiscal Year

HSA—Homeland Security Act of 2002

ICE—U.S. Immigration and Customs Enforcement

IFR—Interim final rule

IIRIRA—Illegal Immigration Reform and Immigrant Responsibility Act of 1996

INA—Immigration and Nationality Act

ISO—Immigration Service Officer

NEPA—National Environmental Policy Act

OMB—Office of Management and Budget

PRA—Paperwork Reduction Act

SBREFA—Small Business Regulatory Enforcement Fairness Act of 1996

Secretary—Secretary of Homeland Security

TFR – Temporary final rule

UMRA—Unfunded Mandates Reform Act of 1995

U.S.C.—United States Code

USCIS—U.S. Citizenship and Immigration Services

## I. Public Participation

DHS invites all interested parties to participate in this rulemaking by submitting written data, views, comments and arguments on all aspects of this IFR. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this IFR. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS in

implementing these changes will reference a specific portion of the IFR, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than the one listed above, including e-mails or letters sent to DHS or USCIS officials, will not be considered comments on the IFR and may not receive a response from DHS.

**Instructions:** If you submit a comment, you must include the agency name (U.S. Citizenship and Immigration Services) and the DHS Docket No. USCIS-**USCIS-2025-0271** for this rulemaking. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at http://www.regulations.gov, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy and Security Notice available at http://www.regulations.gov.

**Docket:** For access to the docket and to read background documents or comments received, go to http://www.regulations.gov, referencing DHS Docket No. USCIS-**USCIS-2025-0271**. You may also sign up for email alerts on the online docket to be notified when comments are posted or a final rule is published.

## II. Executive Summary

### A. Purpose of the Regulatory Action

The purpose of this rulemaking is to prioritize the proper vetting and screening of aliens before granting a new period of employment authorization and/or a new EAD by ending the practice of automatically extending the validity of employment authorization and/or EADs for aliens who have timely filed an application to renew their EAD in

certain employment authorization categories. DHS will also continue to work to reduce frivolous, fraudulent or otherwise non-meritorious EAD filings to free up adjudicatory and other resources to better ensure national security and program integrity. Ending the practice of providing automatic extensions of EADs is consistent with President Trump's directive in Executive Order (E.O.) 14159 "Protecting the American People Against Invasion," which directs the Secretary of Homeland Security, in coordination with the Secretary of State and the Attorney General, in Section 16 to take all appropriate action to align any departmental activities with the policies set out by the President, and to ensure, among others, "that employment authorization is provided in a manner consistent with section 274A of the INA (8 U.S.C. 1324a), and that employment authorization is not provided to any unauthorized alien in the United States."[1] It is also consistent with E.O. 14161, "Protecting the United States From Foreign Terrorists and Other National Security and Public Safety Threats," which directs the Secretary of State, in coordination with the Secretary of Homeland Security, the Attorney General, and the Director of National Intelligence in Section 2 to "identify all resources that may be used to ensure that all aliens seeking admission to the United States, or who are already in the United States, are vetted and screened to the maximum degree possible."[2]

**B. Legal Authority**

The authority for the Secretary of Homeland Security (Secretary) to issue this IFR is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws and establish such regulations as the Secretary deems necessary for carrying out such authority, and section 101(b)(1)(F) of the Homeland Security Act (HSA), 6 U.S.C. 111(b)(1)(F), which

[1] *See* E.O. 14159, Protecting the American People Against Invasion (Jan. 20, 2025), 90 FR 8443, 8446 (Jan. 29, 2025).
[2] *See* E.O. 14161, Protecting the United States From Foreign Terrorists and Other National Security and Public Safety Threats (Jan. 20, 2025), 90 FR 8451, 8451 (Jan. 30, 2025).

establishes as a primary mission of DHS the duty to "ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland."

### C. Summary of the Regulatory Action

This IFR makes the following changes:

- DHS is revising the heading of 8 CFR 274a.13(d), to clearly indicate that the up-to 540-day automatic extension period only applies to renewal EAD applications filed before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. DHS makes no other changes to this paragraph.
- DHS is adding new 8 CFR 274a.13(e). The new provision explains that, unless otherwise provided in 8 CFR 274a.13(d), by law, or through a Federal Register notice for Temporary Protected Status (TPS)-related employment documentation, the validity period of an expired or expiring Employment Authorization Document and/or employment authorization will not be automatically extended by a renewal EAD application filed on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

This IFR does not impact automatic extensions of EADs and/or employment authorization provided by law or Federal Register notices, such as those for TPS applicants and beneficiaries pursuant to section 244 of the Act, 8 U.S.C. 1254a, and 8 CFR part 244.

## III. Background & Purpose

### A. Legal Authority

The Secretary of Homeland Security's (Secretary) authority for the regulatory amendments made in this IFR are found in various sections of the Immigration and Nationality Act (INA or the Act), 8 U.S.C. 1101 *et seq*., and the Homeland Security Act of 2002 (HSA), Pub. L. 107–296, 116 Stat. 2135 (codified in part at 6 U.S.C. 101 *et seq.*).

General authority for issuing this rule is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws and establish such regulations as the Secretary deems necessary for carrying out such authority, as well as section 102 of the HSA, 6 U.S.C. 112, which vests all of the functions of DHS in the Secretary and authorizes the Secretary to issue regulations.[3] Further authority for this rule is found in:

- Section 208(d)(2) of the INA, 8 U.S.C. 1158(d)(2), which provides the Secretary with authority to grant employment authorization, in her discretion, to applicants for asylum if 180 days have passed since filing an application for asylum;
- Section 214 of the INA, 8 U.S.C. 1184, including section 214(a)(1) of the INA, 8 U.S.C. 1184(a)(1), which authorizes the Secretary to prescribe, by regulation, the time and conditions of the admission of nonimmigrants;
- Section 244(a)(1)(B) of the INA, 8 U.S.C. 1254a(a)(1)(B), which states that the Secretary shall authorize employment and provide evidence of employment authorization for aliens who have been granted Temporary Protected Status;
- Section 274A(b) of the INA, 8 U.S.C. 1324a(b), which provides for the employment verification system and outlines employment eligibility verification requirements;
- Section 274A(h)(3)(B) of the INA, 8 U.S.C. 1324a(h)(3)(B), recognizes the Secretary's authority to extend employment authorization to aliens in the United States;[4] and

---

[3] Although several provisions of the INA discussed in this final rule refer exclusively to the "Attorney General," such provisions are now to be read as referring to the Secretary of Homeland Security by operation of the HSA. *See* 6 U.S.C. 202(3), 251, 271(b), 542 note, 557; 8 U.S.C. 1103(a)(1) and (g), 1551 note; *Nielsen* v. *Preap,* 586 U.S. 392, 397 n.2 (2019).

[4] Courts have acknowledged that Congress delegated authority to DHS to grant or extend employment authorization to certain classes of aliens. *See, e.g.*, *Wash. All. of Tech. Workers v. DHS*, 50 F.4th 164, 191-192 (D.C. Cir. 2022) ("What matters is that section 1324a(h)(3) expressly acknowledges that employment authorization need not be specifically conferred by statute; it can also be granted by regulation."). DHS is

- Sections 100003(c) and 100012(a) of the One Big Beautiful Bill Act, Pub. L. 119-21 (July 4, 2025), which limit the validity period of any employment authorization for aliens granted Temporary Protected Status (TPS) under section 244 of the INA, 8 U.S.C. 1254a, to a period of one year or for the duration of the designation of TPS, whichever is shorter.

**B. Legal Framework for Employment Authorization and Verification**

1. Types of Employment Authorization: 8 CFR 274a.12(a), (b), and (c)

Whether an alien is authorized to work in the United States depends on the alien's immigration status or other conditions that may permit employment authorization (for example, having a pending application for asylum or a grant of deferred action). DHS regulations outline three classes of aliens who may be eligible for employment in the United States, as follows:[5]

- Aliens in the first class, described at 8 CFR 274a.12(a), are authorized to work "incident to status" for any employer, as well as to engage in self-employment, as a condition of their immigration status or circumstances. This means that for certain eligible aliens, employment authorization is granted with the underlying immigration status (called "incident to status" employment authorization). Although authorized to work as a condition of their status or circumstances, certain classes of aliens must apply to USCIS, which they do by filing a Form I-

---

exercising this discretionary authority consistent with all applicable authorities, including the referenced authorities in the HSA, and sections 103, 208, 214, 244, and 274A(h)(3) of the INA, 8 U.S.C. 1103, 1158, 1184, 1254a, and 1324a(h)(3), as well as the Administrative Procedure Act at 5 U.S.C. 553. *See Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2263 (2024) ("In a case involving an agency, of course, the statute's meaning may well be that the agency is authorized to exercise a degree of discretion. Congress has often enacted such statutes. For example, some statutes 'expressly delegate' to an agency the authority to give meaning to a particular statutory term. Others empower an agency to prescribe rules to 'fill up the details' of a statutory scheme, or to regulate subject to the limits imposed by a term or phrase that leaves agencies with flexibility,' such as 'appropriate' or 'reasonable.'") (internal citations omitted). Litigation challenging DHS's authority to provide employment authorization to certain H-4 nonimmigrants is currently pending before the Supreme Court. *Save Jobs USA v. DHS*, No. 24-923 (docketed Feb. 26, 2025).

[5] There are several employment-eligible categories that are not included in DHS regulations but instead are described in the form instructions to Form I-765, Application for Employment Authorization (EAD application). Employment-authorized L nonimmigrant spouses are an example. *See* INA sec. 214(c)(2)(E), 8 U.S.C. 1184(c)(2)(E).

765 Application for Employment Authorization, in order to receive a Form I-766 EAD as evidence of that employment authorization.[6]

- Aliens in the second class, described at 8 CFR 274a.12(b), also are authorized to work "incident to status" as a condition of their immigration status or circumstances, but generally the authorization is valid only with a specific employer.[7] These aliens are issued an Arrival-Departure Record (Form I-94) indicating their employment-authorized status in the United States and in most cases do not file separate requests for evidence of employment authorization.
- Aliens in the third class, described at 8 CFR 274a.12(c), are required to apply for employment authorization, which they do by filing a Form I-765 Application for Employment Authorization, and may work only if USCIS, in its discretion, approves their application and issues a Form I-766 EAD. They are authorized to work for any employer or engage in self-employment with a valid EAD, subject to certain restrictions.[8]

2. The Application Process for Obtaining an Employment Authorization Document

For certain eligibility categories listed in 8 CFR 274a.12(a) (the first class) and all eligibility categories listed in 8 CFR 274a.12(c) (the third class), as well as additional categories specified in the Form I-765 instructions,[9] an EAD application must be properly filed with USCIS (with fee or fee waiver, as applicable) before an alien can receive an

---

[6] *See* 8 CFR 274a.12(a).
[7] *See* 8 CFR 274a.12(b).
[8] *See* 8 CFR 274a.12(c); *Matter of Tong*, 16 I&N Dec. 593, 595 (BIA 1978) (holding that the term "'employment' is a common one, generally used with relation to the most common pursuits," and includes "the act of being employed for one's self").
[9] *See* DHS, USCIS, Form I-765, "Instructions for Application for Employment Authorization," https://www.uscis.gov/sites/default/files/document/forms/i-765instr.pdf (last visited June 16, 2025). In reviewing the EAD application, USCIS ensures that the fee was paid, a fee waiver was granted, or a fee exemption applies.

EAD and/or employment authorization.[10] If an EAD application is approved under 8 CFR 274a.12(a), the resultant EAD provides the alien with proof of identity and employment authorization incident to status or circumstance. Certain aliens may file EAD applications concurrently with related benefit requests if permitted by the applicable form instructions or as announced by USCIS.[11] In such instances, the underlying benefit requests, if granted, would form the basis for an EAD or eligibility to apply for employment authorization. For eligibility categories listed in 8 CFR 274a.12(a) and (c), USCIS has the discretion to establish a specific validity period for the EAD.[12]

After an alien's filing of an EAD application, USCIS typically issues a Form I-797C, Notice of Action ("Form I-797C" or "receipt notice") to confirm receipt. EAD applications received by USCIS initially go through an intake process. The technical mechanics of the intake process vary based on the requested employment authorization category and whether the EAD application was filed electronically or by mail. Regardless of the applicable category or method of filing, the EAD application intake process generally consists of the following steps: data is entered into a USCIS case-management system based on the information provided by the applicant, the required fee is collected or waived, and the applicant's signature is verified.

Once these steps are complete, USCIS begins the pre-processing stage of the adjudication. Pre-processing may include A-number verification, scheduling of a biometrics appointment or biometric reuse, and resolution of discrepancies related to the applicant's identity or address. This stage also includes initial security checks based on

---

[10] *See* 8 CFR 103.2(a) and 8 CFR 274a.13(a). Some aliens who are employment authorized incident to status (e.g., asylees, refugees, TPS beneficiaries) may file an EAD application to obtain an EAD. Aliens who are filing within an eligibility category listed in 8 CFR 274a.12(c) must, by contrast, use the EAD application form to request both employment authorization and an EAD.

[11] *See* 8 CFR 274a.13(a). For example, the spouse of an H-1B worker may file an EAD application at the same time as his or her Form I-539, Application to Extend/Change Nonimmigrant Status. *See* DHS, USCIS, *Employment Authorization for Certain H-4, E Dependent Spouses* (last visited June 16, 2025), https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/employment-authorization-for-certain-h-4-dependent-spouses (last visited June 16, 2025).

[12] *See* 8 CFR 274a.12(a) and (c).

biographic information provided by the applicant. If the initial security checks reveal any national security or public safety threat through "hits" in the database system, these hits must be promptly reviewed by an officer who will have to resolve and address these hits. The resolution of some hits can be time consuming and may involve collaboration with law enforcement agencies.

Once pre-processing is complete, the case moves into a queue to await adjudication, where cases are assigned for adjudication generally based on a first-in-first-out processing order. At adjudication, immigration service officers (ISO) review the applicant's evidence of eligibility. If the ISO determines that the applicant is eligible, additional security checks may be conducted. Upon final review of the results of security checks and resolution of any issues that are identified during the security check and review process, and if the applicant continues to be eligible and merits a favorable exercise of discretion, as applicable, the application may be approved.

If eligibility is not established, or if the applicant does not appear to merit a favorable exercise of discretion, when applicable, USCIS may issue a request for evidence or notice of intent to deny in order to provide the applicant with the opportunity to address any deficiencies in the record or rebut a presumption of ineligibility. Upon receiving the response, USCIS reviews the submission and issues a final decision on the application. Prior to issuing the final decision, USCIS may update or conduct additional security checks.

3. Renewal of Employment Authorization Documents

Temporary employment authorization and EADs generally are not valid indefinitely but instead expire after a specified period of time.[13] Generally, aliens within

[13] *See* 8 CFR 274a.13(b). *But see* 8 CFR 274a.14 (setting forth the basis for termination or revocation of employment authorization); *see also* secs. 100003(b), (c), 100010(a) and 1000012(a) of the *One Big Beautiful Bill Act*, Pub. L. 119-21 (July 4, 2025) (limiting any employment authorization for aliens paroled into the United States or granted TPS to a duration of one year or for the duration of the parole/TPS, whichever is shorter).

the eligibility categories listed in 8 CFR 274a.12(c) must obtain a renewal of employment authorization and their EADs before the expiration date stated on their current EADs, or they will lose their eligibility to work in the United States (unless, since obtaining their current EADs, the aliens have obtained an immigration status or belong to a class of aliens with employment authorization incident to that status or class, or obtain employment authorization based on another category).[14] The same holds true for some classes of aliens authorized to work incident to status whose EAD expiration dates coincide with the termination or expiration of their underlying immigration status. Other aliens authorized to work incident to status, such as asylees, refugees, and TPS beneficiaries, may have immigration status that confers employment authorization that continues past the expiration date stated on their EADs. Nevertheless, such aliens may wish to renew their EAD to have acceptable evidence of their continuous employment authorization for various purposes, such as presenting evidence of employment authorization and identity to their employers for completion of Form I-9, Employment Eligibility Verification. Failure to renew their EADs prior to the expiration date may result in job loss if such aliens do not have or cannot present unexpired alternate acceptable evidence of employment authorization to show their employers.[15]

---

[14] *See* 8 CFR 274a.14(a)(1)(i).

[15] The employee must present the employer with acceptable and unexpired documents evidencing identity and employment authorization. The lists of acceptable documents can be found on Form I-9. *See* DHS, USCIS, Form I-9, *Employment Eligibility Verification*, https://www.uscis.gov/sites/default/files/document/forms/i-9.pdf (last visited June 16, 2025) and 8 CFR 274a.2(b)(1)(v). An example of alternate evidence for an asylee is Form I-94, Arrival/Departure Record, with the appropriate stamp or notation paired with an acceptable identity document, such as a state-issued driver's license or identity card. *See* DHS, USCIS, *M-274, Handbook for Employers, 7.3 Refugees and Asylees*, https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/70-evidence-of-employment-authorization-for-certain-categories/73-refugees-and-asylees (last visited June 16, 2025). An employer that does not properly complete Form I-9, which includes reverifying continued employment authorization, or continues to employ an individual with knowledge that the individual is not authorized to work, may be subject to civil money penalties. *See* DHS, USCIS, *M-274, Handbook for Employers, 11.8 Penalties for Prohibited Practices*, https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/110-unlawful-discrimination-and-penalties-for-prohibited-practices/118-penalties-for-prohibited-practices (last visited June 16, 2025). In addition, an employer who engages in a "pattern or practice" of employing unauthorized aliens may face criminal penalties under 8 U.S.C. 1324a(f). U.S. Immigration and Customs Enforcement has primary enforcement responsibilities for enforcement of the civil monetary penalties under INA sec. 274A, 8 U.S.C. 1324a.

Those seeking to renew previously granted employment authorization and/or obtain new EADs must file renewal EAD applications with USCIS in accordance with the form instructions.[16] USCIS generally recommends filing a renewal EAD application up to 180 days before the current EAD expires.[17]

4. I-9 Employment Eligibility Verification

The Immigration Reform and Control Act (IRCA) requires employers to verify the identity and employment eligibility of their employees and sets forth criminal and civil sanctions for employment-related violations. *See* Pub. L. 99-603, 100 Stat. 3445 (1986). Section 274A(b) of the INA, 8 U.S.C. § 1324a(b), requires employers to verify the identity and employment eligibility of all individuals, including aliens, hired in the United States. The Employment Eligibility Verification form (Form I-9) is used by employers to document this verification. For all current employees and certain former employees, employers are required to maintain for inspection original Forms I-9 on paper or as an electronic version generated by an electronic system that can produce legible and readable paper copies, among other requirements.[18]

Under 8 CFR 274a.2(b)(1)(vii), if an employee's EAD and/or employment authorization expires, his or her employer must reverify or update the employee's Form I-9 to reflect that the employee is still authorized to work in the United States; otherwise, the alien's continued employment may be in violation of the law. No later than the date employment authorization expires, employees must present unexpired acceptable

---

[16] *See* 8 CFR 103.2, 106.2, and 274a.13(a); *see* DHS, USCIS, F*orm I-765, Instructions for Application for Employment Authorization*, https://www.uscis.gov/sites/default/files/document/forms/i-765instr.pdf (last visited June 16, 2025). In reviewing the EAD application, USCIS ensures that the fee was paid, a fee waiver was granted, or a fee exemption applies.

[17] *See* DHS, USCIS, "I-765, Application for Employment Authorization," https://www.uscis.gov/i-765 (last visited June 16, 2025); DHS, USCIS, *Employment Authorization Document* (last visited June 16, 2025), https://www.uscis.gov/green-card/green-card-processes-and-procedures/employment-authorization-document (last visited June 16, 2025); *see also* 81 FR 82398, 82456.

[18] *See* 8 CFR 274a.2(e)–(i).

documentation that demonstrates continued authorization to work.[19] The employer is required to reverify or update information on the employee's Form I-9 to record the employee's evidence of continued employment authorization. Employers who fail to properly complete Forms I-9, including reverification, are subject to civil money penalties for paperwork violations.[20] Employers must terminate employment of employees who have gaps in their employment authorization documentation and are not able to reverify or risk being fined under the employer sanctions provisions in section 274A of the INA, 8 U.S.C. 1324a.

If an alien engages in unauthorized employment, such activity may render the alien removable,[21] render the alien ineligible for future benefits such as adjustment of status,[22] and/or subject the employer to civil and/or criminal penalties.[23]

### C. Automatic Extension of Employment Authorization and Documentation

Before November 2016, 8 CFR 274a.13(d) stated that USCIS would adjudicate an EAD application within 90 days of receipt. If USCIS did not adjudicate the EAD application within that timeframe, the alien was eligible to request an interim EAD with a validity period not to exceed 240 days.[24]

On November 18, 2016, as part of DHS's efforts to implement the American Competitiveness in the Twenty-first Century Act of 2000 (AC21), DHS published a final rule that eliminated Interim EADs and replaced them with a maximum 180-day automatic extension period for certain renewal applicants.[25] DHS subsequently issued a final rule in December 2024 that increased the automatic extension period from up to 180 days to up

---

[19] *See* DHS, USCIS, *M-274, Handbook for Employers, 6.1, Reverifying Employment Authorization for Current Employees*, https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/60-completing-supplement-b-reverification-and-rehire-of-form-i-9/61-reverifying-employment-authorization-for-current-employees (last visited June 16, 2025).
[20] *See* INA sec. 274A(e)(5), 8 U.S.C. 1324a(e)(5).
[21] *See, e.g.*, INA sec. 237(a)(1)(C), 8 U.S.C. 1227(a)(1)(C); 8 CFR 214.1(e).
[22] *See* INA sec. 245(c), (k); 8 U.S.C. 1255(c), (k).
[23] *See* INA sec. 274A, 8 U.S.C. 1324a.
[24] *See* 8 CFR 274a.13(d) (2016).
[25] *See* 81 FR 82398 (Nov. 18, 2016) (AC21 Final Rule).

to 540 days for certain applications pending on May 4, 2022, or properly filed on or after May 4, 2022.[26]

Under the current regulation, the automatic extension period automatically extends the validity period of certain categories of EADs for up to 540 days if the alien timely files a renewal application (and USCIS is still processing the application after the expiration date of the current EAD). The issuance of the receipt notice (Form I-797C) indicating timely filing of the EAD renewal application, and the same employment eligibility category as stated on the facially expired EAD is the mechanism that serves to automatically extend the EAD.[27] However, at the time of the issuance of the receipt notice, vetting and screening checks have not been completed, potential hits of derogatory information have not been resolved, a determination of continued eligibility has not been made, and when applicable, USCIS has not determined that the employment authorization should continue to be granted in the exercise of discretion. Once USCIS adjudicates the renewal EAD application, the automatic extension period ends.

To receive an automatic extension under the current regulation, an eligible renewal applicant must meet the following conditions:

- The alien timely files an application to renew the EAD and/or employment authorization before the EAD expires;[28]
- The renewal EAD application is based on the same employment authorization category shown on the front of the expiring EAD or, for an alien approved for

[26] *See* 89 FR 101208 (Dec. 13, 2024) (permanently increased the automatic extension period to up to 540 days). In addition, DHS previously issued temporary final rules on this same topic in May 2022 and April 2024, discussed further below in Section III.D of this preamble.
[27] For EADs and I-797C notices that contain either an A12 or C19 category code, the category codes need not match.
[28] 8 CFR 274a.13(d)(1)(i). TPS beneficiaries must file during the re-registration period in the applicable *Federal Register* notice; *see* 81 FR 82398, 82455 (Nov. 18, 2016).

TPS, whose EAD was issued pursuant to either 8 CFR 274a.12(a)(12) or (c)(19);[29] and

- The alien's eligibility to apply for employment authorization continues notwithstanding the expiration of the EAD and is based on an employment authorization category that does not require the adjudication of an underlying application or petition before the adjudication of the renewal application, as may be announced on the USCIS website.[30]

The following classes of aliens filing to renew an EAD may be eligible to receive an automatic extension of their employment authorization and/or EAD for up to 540 days under the current regulation:[31]

- Aliens admitted as refugees (A03);[32]
- Aliens granted asylum (A05);[33]
- 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);[34]
- 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);[35]
- Aliens granted withholding of deportation or removal (A10);[36]

---

[29] *See* 8 CFR 274a.13(d)(1)(ii) (exempting aliens approved for TPS with EADs issued pursuant to 8 CFR 274a.12(c)(19) from the requirement that the employment authorization category on the face of the expiring EAD be the same as on the renewal EAD application).
[30] *See* 8 CFR 274a.13(d)(1)(iii).
[31] *See* DHS, USCIS, *Automatic Employment Authorization (EAD) Extension* (last visited June 16, 2025), https://www.uscis.gov/working-in-the-united-states/information-for-employers-and-employees/automatic-employment-authorization-document-ead-extension (last visited June 16, 2025).
[32] *See* 8 CFR 274a.12(a)(3).
[33] *See* 8 CFR 274a.12(a)(5).
[34] *See* 8 CFR 274a.12(a)(7).
[35] *See* 8 CFR 274a.12(a)(8).
[36] *See* 8 CFR 274a.12(a)(10).

- Aliens granted TPS, if the employment authorization category on their current EAD is either A12 or C19 (A12);[37]
- Alien spouses of E-1/2/3 nonimmigrants (Treaty Trader/Investor/Australian Specialty Worker) (A17);[38]
- Alien spouses of L-1 nonimmigrants (Intracompany Transferees) (A18);[39]
- 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);[41]
- 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);[42]
- Aliens who have filed applications for creation of record of lawful admission for permanent residence (C16);[43]
- 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

[37] *See* 8 CFR 274a.12(a)(12) or (c)(19).
[38] *See* INA sec. 214(e)(2), 8 U.S.C. 1184(e)(2).
[39] *See* INA sec. 214(c)(2)(E), 8 U.S.C. 1184(c)(2)(E).
[40] *See* 8 CFR 274a.12(c)(8).
[41] *See* 8 CFR 274a.12(c)(9). In certain adjustment of status cases, if the applicant seeks an EAD and advance parole (by filing Form I-131, Application for Travel Document), USCIS may issue an employment authorization card combined with an Advance Parole Card (Form I-512). This is also referred to as a "combo card." If the EAD card is combined with the advance parole authorization (the EAD card has an annotation "SERVES AS I-512 ADVANCE PAROLE"), any automatic extension does not apply to the advance parole part of the combo card.
[42] *See* 8 CFR 274a.12(c)(10).
[43] *See* 8 CFR 274a.12(c)(16).

"temporary treatment benefit" under 8 CFR 244.10(e) and 274a.12(c)(19) (C19);[44]

- Aliens who have filed legalization applications pursuant to section 210 of the INA, 8 U.S.C. 1160 (C20);[45]
- Aliens who have filed legalization applications pursuant to section 245A of the INA, 8 U.S.C. 1255a (C22);[46]
- Aliens who have filed applications for adjustment of status pursuant to section 1104 of the Legal Immigration Family Equity Act (C24);[47]
- Certain alien spouses (H-4) of H-1B nonimmigrants with an unexpired Form I-94 showing H-4 nonimmigrant status (C26);[48] and
- Aliens who are the principal beneficiaries or derivative children of approved Violence Against Women Act (VAWA) self-petitioners,[49] under the employment authorization category "(c)(31)" in the form instructions to the EAD application (C31).[50]

The extension automatically terminates up to 540 days after the expiration date on the face of the EAD, or upon issuance of notification of a decision denying the renewal request, whichever date is earlier.[51] An EAD that is expired on its face is considered unexpired when combined with a Form I-797C receipt notice indicating a timely filing of the application to renew the EAD when the automatic extension requirements are met.[52]

---

[44] *See* 8 CFR 274a.12(c)(19).
[45] *See* 8 CFR 274a.12(c)(20).
[46] *See* 8 CFR 274a.12(c)(22).
[47] *See* 8 CFR 274a.12(c)(24).
[48] *See* 8 CFR 274a.12(c)(26).
[49] Family-based immigration generally requires U.S. citizens and lawful permanent residents to file a petition on behalf of their alien family members. Some petitioners may misuse this process to further abuse their alien family members by threatening to withhold or withdraw sponsorship in order to control, coerce, and intimidate them. With the passage of VAWA and its subsequent reauthorizations, Congress provided aliens who have been abused by their U.S. citizen or lawful permanent resident relative the ability to petition for themselves (self-petition) without the abuser's knowledge, consent, or participation in the process. The VAWA provisions allow victims to seek both safety and independence from their abusers.
[50] INA sec. 204(a)(1)(D)(i)(II), (IV), (a)(1)(K), 8 U.S.C. 1154(a)(1)(D)(i)(II), (IV), (a)(1)(K).
[51] *See* 8 CFR 274a.13(d)(3).
[52] *See* 8 CFR 274a.13(d)(4).

Therefore, when the "card expires" date on the front of the EAD is reached, an eligible alien who is continuing his or her U.S. employment may present to his or her employer the Form I-797C receipt notice for the renewal EAD application to show that the validity of the EAD has been automatically extended as evidence of continued employment authorization, and the employer must update the previously completed Form I-9, Employment Eligibility Verification, to reflect the extended EAD expiration date based on the automatic extension while the renewal is pending.

For new employment, the automatic extension date is recorded on the Form I-9 by the employee and the employer in the first instance. In either case, reverification of employment authorization and/or the EAD must occur when the automatic extension period terminates.[53]

If the renewal application is granted, the new employment authorization and/or EAD generally is valid as of the date of approval of the application. If the application is denied, the automatically extended employment authorization and/or EAD generally is terminated on the day of the denial.[54] If the renewal application was timely and properly filed, but remains pending beyond the maximum 540-day automatic extension period, the applicant must stop working upon the expiration of the automatically extended validity period, and the employer must remove the employee from the payroll if the applicant/employee cannot provide other acceptable evidence of current employment authorization.[55]

**D. Increasing the Automatic Extension Period from a Maximum of 180 Days to**

---

[53] *See* DHS,USCIS, "Completing Supplement B, Reverification and Rehires (formerly Section 3)," https://www.uscis.gov/i-9-central/complete-correct-form-i-9/completing-supplement-b-reverification-and-rehires-formerly-section-3 (last visited June 16, 2025); *see also* DHS, USCIS, *M-274 Handbook for Employers*, *5.2 Temporary Increase of Automatic Extension of EADs from 180 Days to 540 Days* (last visited June 16, 2025), https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/50-automatic-extensions-of-employment-authorization-andor-employment-authorization-documents-eads-in/52-temporary-increase-of-automatic-extension-of-eads-from-180-days-to-540-days (last visited June 16, 2025).

[54] *See* 8 CFR 274a.13(d)(3).

[55] *See* 8 CFR 274a.2(b)(vii) (reverification provision).

**a Maximum of 540 Days**

USCIS' ability to process both initial and renewal EAD applications within USCIS' targeted processing times was adversely impacted by a variety of circumstances since the promulgation of the up to 180-day automatic extension period for certain renewal EAD applicants.[56] To reduce the number of renewal EAD applicants eligible for an automatic extension of their EAD validity under 8 CFR 274a.13(d) from experiencing lapses in their EAD validity and/or employment authorization because of USCIS processing delays, DHS issued temporary final rules in May 2022[57] and April 2024[58] that temporarily increased the automatic extension from up to 180 days to up to 540 days. DHS also issued a final rule in December 2024[59] that codified the up to 540-day automatic extension for certain applications pending on May 4, 2022, or properly filed on or after May 4, 2022. These three regulatory actions are discussed in more detail in the following sections.

1. Circumstances Resulting in the 2022 Temporary Final Rule

In 2022, processing times for renewal EAD applications had significantly increased due to fiscal and operational challenges that were exacerbated by the emergency measures USCIS employed in response to the COVID-19 pandemic and a sudden increase in EAD application filings.[60]

USCIS is a fee-based agency that relies on predictable fee revenue and its carryover from the previous year. USCIS began experiencing fiscal troubles in early December 2019, due in part to the fact that USCIS had not been able to update its fee

---

[56] *See* 87 FR 26614, 26617–26 (May 4, 2022) (identifying USCIS' precarious fiscal status, the COVID-19 public health emergency, and dramatic increases in Form I-765 filings); *see also* 89 FR 24628, 24634–40 (Apr. 8, 2024) (identifying an increase in referrals to USCIS for Credible Fear Assessment and an increase in affirmative and defensive asylum filings as contributing factors to increased EAD processing times).
[57] 87 FR 26614 (May 4, 2022) (temporarily increased the automatic extension period to up to 540 days).
[58] 89 FR 24628 (Apr. 8, 2024) (temporarily increased the automatic extension period to up to 540 days).
[59] 89 FR 101208 (Dec. 13, 2024) (permanently increased the automatic extension period to up to 540 days).
[60] 87 FR 26614, 26622, 26625 (May 4, 2022)

structure since the 2016 Fee Rule, meaning that USCIS was unable to fully cover the costs of administering current and projected volumes of immigration benefit requests.[61]

This precarious financial situation was exacerbated by the COVID-19 pandemic,[62] which caused a significant drop in receipts across many of the most common benefit types, resulting in a commensurate drop in revenues.[63]

Consequently, USCIS was forced to take steps to preserve sufficient funds to meet payroll and carryover obligations by cutting overtime contractor support services and imposing an agency-wide hiring freeze from May 1, 2020, through March 31, 2021. These cuts hindered USCIS' ability to address and mitigate backlogs and ensure processing times remained within goals.[64]

An additional contributing factor was a substantial and sustained increase in initial and renewal EAD applications which significantly increased renewal EAD processing times.[65] The increased filings resulted from, among other things, new TPS designations by the Biden Administration as well as increased filings related to asylum applications and DACA.[66]

To mitigate the impact of these operational challenges on EAD processing times, on May 4, 2022, DHS published a TFR titled "Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Renewal Applicants" (2022 TFR) in the Federal Register.[67] The rule temporarily amended DHS

---

[61] 87 FR 26614, 26620 (May 4, 2022).
[62] On January 31, 2020, the Secretary of Health and Human Services (HHS) declared a public health emergency under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19. *See* HHS, Determination that a Public Health Emergency Exists, https://aspr.hhs.gov/legal/PHE/Pages/2019-nCoV.aspx (last visited June 16, 2025).
[63] In addition to the lowest number of receipts in the past 5 years, USCIS also completed the lowest number of benefit requests in the past 5 years. The worst rates of completion were observed during the beginning of the pandemic when USCIS field offices and ASCs were closed to the public. While USCIS attempted to recover by shifting adjudications to form types not requiring in-person appearances, USCIS still completed fewer benefit requests than it received in FY 2020. *See* 2020 USCIS Statistical Annual Report, p. 4., https://www.uscis.gov/tools/reports-and-studies (last updated May 28, 2025).
[64] 87 FR 26614, 26620-26621 (May 4, 2022).
[65] 87 FR 26614, 26624 (May 4, 2022).
[66] 87 FR 26614, 26618 (May 4, 2022).
[67] 87 FR 26614 (May 4, 2022).

regulations at 8 CFR 274a.13(d) by adding a new paragraph 8 CFR 274a.13(d)(5), which lengthened the automatic extension period provided in that section from up to 180 days to up to 540 days for those categories described in the 2022 TFR, if the renewal applicant timely filed a renewal EAD application.[68] That increase was available to eligible renewal applicants whose EAD applications were pending as of May 4, 2022, including those renewal applicants whose employment authorization had already lapsed following the initial 180-day extension period. The increase was also available to eligible aliens who filed a renewal EAD application during the 540-day period beginning on or after May 4, 2022, and ending October 26, 2023.[69] On October 27, 2023, the automatic extension renewal period reverted to 180 days (the automatic extension period under 8 CFR 274a.13(d)(1)) for eligible renewal EAD applications filed on or after October 27, 2023.[70]

2. Circumstances Resulting in the 2024 Temporary Final Rule

As discussed later in this preamble, in FY2023, the adjudicative demands caused by the Biden Administration's approach to the border crisis,[71] and other increases in immigration benefit filings and court-ordered processing timeframes,[72] created new operational strains that significantly increased renewal EAD application processing times.

Specifically, the Biden Administration's encouragement of new asylum applicants, the decision to reassign USCIS employees to perform credible fear

---

[68] *See* 8 CFR 274a.13(d); *see also* 87 FR 26614, 26651 (May 4, 2022).
[69] *See* 8 CFR 274a.13(d); *see also* 87 FR 26614, 26651 (May 4, 2022).
[70] *See* 87 FR 26614, 26631 (May 4, 2022).
[71] As noted in the April 2024 EAD TFR, CBP had a record number of encounters at the U.S. southern border throughout FY 2022 and 2024. See 89 FR 24628, 24637.
[72] As a result of the court order in *Asylumworks v. Mayorkas*, 590 F. Supp. 3d 11 (D.D.C. Feb. 7, 2022), since February 7, 2022, USCIS has been required to process initial EAD applications for all asylum applicants within 30 days of filing for their EAD. The burden created by the court's order was significant and impacted overall EAD processing due to the surge in C08 EAD applications.

assessments[73] for the flood of new asylum applicants,[74] and the additional TPS designations[75] combined to create renewal EAD application processing backlogs such that large numbers of renewal EAD applicants eligible for the up to 180-day automatic extension were projected to nonetheless experience a gap in their EAD validity and/or employment authorization.[76]

The primary drivers in the growth of EAD applications in FY 2023 (both initials and renewals) were EAD applications based on pending asylum applications (C08), followed by TPS (A12/C19) and parole (C11).[77] The efforts USCIS undertook to improve its processing times for renewal EAD applications, including increasing its staffing levels, were insufficient to keep up with the substantial increase in EAD application filings.

In April 2024, in order to reduce the number of renewal EAD applicants who were projected to experience a lapse in their EAD validity and/or employment authorization, DHS published a temporary final rule ("2024 TFR") that, for certain

---

[73] Under the INA, certain aliens arriving at the U.S. border but who are inadmissible to the United States on certain grounds, may be removed expeditiously under the INA without a hearing unless the alien indicates either an intention to apply for asylum under section 208, 8 U.S.C. 1158, or expresses a fear of persecution or torture. *See* INA sec. 235(b)(1)(A)(i)–(iii), 8 U.S.C. 1225(b)(1)(A)(i)-(iii). If that is that is the case, then the officer at the border refers the alien to a USCIS asylum officer for a credible fear assessment. If the alien has a credible fear of persecution or torture, the individual may apply for asylum and remain in the United States until a final determination is made on the asylum application by an immigration judge, or, in some cases, by a USCIS asylum officer. Such an asylum applicant is also authorized to apply for an EAD, and subsequently, renewal EADs in accordance with the regulations.

[74] To address the impact of these high numbers of credible fear referrals from the southwest border on existing asylum and credible fear procedures, USCIS detailed USCIS personnel, including officers who adjudicate EAD applications, to the USCIS RAIO directorate for up to 120 days to conduct credible fear screenings. Many USCIS detailees were required to take a full-time asylum officer training course lasting several weeks in addition to the 120-day detail period. Diverting adjudicatory resources by training and detailing adjudicators to conduct credible fear screenings significantly strained operational resources for renewal EAD adjudications, resulting in increased processing times.

[75] Over the course of FY 2022 and FY 2023, the Secretary of Homeland Security, in consultation with interagency partners, designated, redesignated, and extended the designation of several countries for TPS under section 244 of the INA, 8 U.S.C. 1254a. The increased number of TPS-based EAD filings (particularly in renewal EAD applications in the A12 category) from FY 2022 to FY 2023 further stretched limited USCIS resources and contributed to the longer processing times for renewal EAD applications overall. For a current list of designated countries, *see* DHS, USCIS, *Temporary Protected Status*, https://www.uscis.gov/humanitarian/temporary-protected-status (last visited June 16, 2025).

[76] USCIS projected that without the 2024 TFR, approximately 800,000 renewal applicants would have been in danger of experiencing a lapse in their EAD validity and/or employment authorization in the period beginning May 2024 and ending March 2026. See 89 FR 24628, 24660 (Table 7) (Apr. 8, 2024).

[77] 89 FR 24628, 24635.

renewal EAD applications filed from October 27, 2023, through September 30, 2025, again temporarily increased the automatic extension period from up to 180 days to up to 540 days.[78]

3. Circumstances Resulting in the 2024 Final Rule

After the promulgation of the 2024 TFR, DHS determined that if the automatic extension period were not permanently increased to 540 days, future renewal EAD applicants could be in danger of experiencing a gap in EAD validity and/or employment authorization.[79] After having considered all operational realities, to include the potential for a renewed surge in EAD application filings or other circumstances that may occur in the future and which could result in large numbers of renewal EAD applications remaining pending beyond the 180-day automatic extension period, DHS determined that without a permanent 540-day automatic extension period there could be significant loss of EAD validity and/or employment authorization.[80] Accordingly, on December 13, 2024, DHS published a final rule that codified the automatic extension period increase from up to 180 days to up to 540 days.[81] This final rule was effective on January 13, 2025.

Unlike the 2022 and 2024 TFRs, the final rule was not issued to address short-term issues with renewal EAD processing times. Instead, the stated purpose of the final rule was to mitigate the impact of potential future renewal EAD processing backlogs that may be caused by a variety of circumstances.[82]

---

[78] *See* 89 FR 24628 (Apr. 8, 2024). The 2024 TFR increased the automatic extension period from up to 180 days to up to 540 days for aliens who properly filed their renewal EAD applications on or after October 27, 2023, and that remained pending on May 4, 2024, as well as renewal EAD applications filed from May 4, 2024, through September 30, 2025.
[79] 89 FR 101208, 101216.
[80] 89 FR 101208, 101224.
[81] *See* 89 FR 101208 (Dec. 13, 2024).
[82] *See* 89 FR 101208, 101224.

## IV. Discussion of this Interim Final Rule

Aliens who timely filed a renewal EAD application for certain employment authorization categories were eligible for the automatic extension of their EADs for up to 540 days.[83] This IFR amends DHS regulations to end the practice of automatically extending the validity of EADs. *See* new 8 CFR 274a.13(e). This IFR will not impact the automatic extensions already granted to renewal EAD applicants under 8 CFR 274a.13(d)(1), if the renewal EAD request was filed before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. *See* 8 CFR 274a.13(d). This IFR also does not impact automatic extensions otherwise provided by law or in an applicable Federal Register notice regarding procedures for extending the validity of TPS-related employment documentation pursuant to section 244 of the INA, 8 U.S.C. 1254a, and 8 CFR part 244.[84]

DHS's mission is to safeguard the American people, our homeland, and our values with honor and integrity. In service of that mission, DHS protects the United States from threats by terrorists, criminals, smugglers, transnational criminal organizations, failed state actors, and unpredictable lone offenders that constitute present and future threats to public safety and national security.

As explained earlier in this preamble, USCIS issues EADs to certain classes of aliens. These documents are valid for a specified period of time. Aliens who intend to continue their employment beyond the date specified on their EAD must generally file an application to renew their employment authorization and/or EAD. This renewal EAD requirement allows DHS to ensure that the alien continues to be eligible for employment authorization, including warranting a favorable exercise of discretion, when applicable,

---

[83] *See* 89 FR 101208.

[84] DHS notes, however, that sections 100003(c) and 100012(a) of the One Big Beautiful Bill Act, Pub. L. 119-21 (July 4, 2025), limits the validity period of any employment authorization for aliens granted Temporary Protected Status (TPS) under section 244 of the INA, 8 U.S.C. 1254a, to a period of 1 year or for the duration of the designation of TPS, whichever is shorter.

or continues to be employment authorized incident to their status or circumstance. USCIS makes the determination of eligibility through the adjudication of the Form I-765, Application for Employment Authorization. Adjudication of the application is critical as it involves an eligibility determination for the benefit, vetting and screening to ensure there are no identifiable threats to national security or public safety, and, for certain categories, an exercise of discretion.

The automatic extension of the validity of an EAD grants the benefit of extending an alien's expired EAD and/or employment authorization merely by filing a timely renewal EAD application and without first completing adjudicative review and related vetting, including resolution of derogatory information identified during the vetting process. That is, it grants the benefit without an eligibility determination; without completing vetting and screening checks; without resolving potential hits of derogatory information; and, when applicable, without a determination that the employment authorization should be granted in the exercise of discretion. Without this IFR, aliens could still obtain an automatic extension despite derogatory information that could flag them as a national security or public safety risk. As described above, vetting and screening might not be completed and derogatory information reviewed and resolved before the alien's EAD expires. The automatic extension, therefore, poses a security vulnerability that could allow bad actors to continue to work and generate income to potentially finance nefarious activities that pose an imminent threat to the American public. Granting benefits without proper vetting and full adjudication is contrary to the mission of DHS and poses a threat to the safety and security of the American people.[85]

Therefore, DHS is ending the practice of providing automatic extension of EADs

---

[85] *See, e.g.,* Conference Report to accompany H.R. 4567 [Report 108-774], "Making Appropriations for the Department of Homeland Security for the Fiscal Year Ending September 30, 2005," p. 74 (Oct. 9, 2004), https://www.gpo.gov/fdsys/pkg/CRPT-108hrpt774/pdf/CRPT-108hrpt774.pdf (recommending, among other things, the creation of an organization to conduct "law enforcement/background checks on every applicant, beneficiary, and petitioner prior to granting immigration benefits.") (last visited June 16, 2025).

to fulfill its mission by prioritizing the proper vetting and screening of aliens before granting a new period of employment authorization and/or a new EAD. DHS will also continue to work to reduce frivolous, fraudulent or otherwise non-meritorious EAD filings to free up adjudicatory and other resources to better ensure national security and program integrity.

Ending the practice of providing automatic extensions of EADs is also consistent with President Trump's directive in E.O. 14159 "Protecting the American People Against Invasion," which directs the Secretary of Homeland Security, in coordination with the Secretary of State and the Attorney General, in Section 16 to take all appropriate action to align any departmental activities with the policies set out by the President and to ensure, among others, "that employment authorization is provided in a manner consistent with section 274A of the INA (8 U.S.C. 1324a), and that employment authorization is not provided to any unauthorized alien in the United States."[86] It is also consistent with E.O. 14161, Protecting the United States From Foreign Terrorists and Other National Security and Public Safety Threats (Jan. 20, 2025),[87] which directs the Secretary of State, in coordination with the Secretary of Homeland Security, the Attorney General, and the Director of National Intelligence in Section 2 to promptly "identify all resources that may be used to ensure that all aliens seeking admission to the United States, or who are already in the United States, are vetted and screened to the maximum degree possible," and "vet and screen to the maximum degree possible all aliens who intend to be admitted, enter, or are already inside the United States, particularly those aliens coming from regions or nations with identified security risks."[88]

This IFR is also supported by the Presidential Proclamation "Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other

---

[86] *See* 90 FR 8443, 8446 (Jan. 29, 2025).
[87] *See* 90 FR 8451, 8451 (Jan. 31, 2025).
[88] *See* 90 FR 8451, 8451 (Jan. 31, 2025).

National Security and Public Safety Threats," wherein the President noted that the "United States must ensure that admitted aliens and aliens otherwise already present in the United States do not bear hostile attitudes toward its citizens, culture, government, institutions, or founding principles, and do not advocate for, aid, or support designated foreign terrorists or other threats to our national security."[89] The President also noted that "it is the policy of the United States to protect its citizens from terrorist attacks and other national security or public-safety threats" and that "[s]creening and vetting protocols and procedures associated with visa adjudications and other immigration processes play a critical role in implementing that policy."[90] As such, the President has made clear that a primary goal of this administration is to ensure that admitted aliens and aliens otherwise already present in the United States do not bear hostile attitudes toward its citizens, culture, government, institutions, or founding principles, and do not advocate for, aid, or support designated foreign terrorists and other threats to our public safety and national security.

DHS recognizes the differences between the various employment authorization categories under 8 CFR 274a.12(a) and (c), including the different underlying benefit requests, statuses, and circumstances upon which employment authorization is based. DHS, however, has decided to take a uniform approach in this IFR by ending the practice of providing automatic extensions of employment authorization and/or EADs for all affected categories. A uniform approach avoids the potential for confusion among the regulated public, particularly employers who must comply with Form I-9 employment eligibility verification paperwork requirements or face potential adverse consequences, including possible civil or criminal penalties depending on the nature and extent of the violation(s). Additionally, it also advances the goal of providing a comprehensive policy

[89] Proclamation 10949 (June 4, 2025), 90 FR 24497-98 (June 10, 2025).
[90] Proclamation 10949 (June 4, 2025), 90 FR 24497-98 (June 10, 2025).

solution and administrative simplicity.

### A. Negative Impact of Prior Policies

Over the last four years, the prior administration invited, administered, and oversaw an unprecedented flood of immigration into the United States. Millions of aliens crossed our borders or were permitted to fly directly into the United States on commercial flights and allowed to settle in American communities.[91]

Some of these aliens within the United States present significant threats to national security and public safety, committing vile and heinous acts against innocent Americans.[92] Others are engaged in hostile activities, including espionage, economic espionage, and preparations for terror-related activities.[93] Enforcing our Nation's immigration laws is critically important to the national security and public safety of the United States. The American people deserve a Federal Government that puts their interests first and a government that understands its sacred obligation to prioritize the safety, security, and financial and economic well-being of Americans.[94]

1. Impact of EAD Automatic Extensions on Public Safety and National Security

The immigration policies of the prior administration encouraged a historically high influx of EAD applicants, resulting in over one million aliens being granted

---

[91] *See* E.O. 14159, Protecting the American People Against Invasion, Section 1, Purpose, 90 FR 8443 (Jan. 29, 2025); *see also* Andre Byik, USA Today, No, 51M 'illegals' have not entered US under Biden, Harris | Fact check (Aug. 12, 2024), https://www.usatoday.com/story/news/factcheck/2024/08/12/51-million-border-illegally-biden-fact-check/74595944007/ (relaying that U.S. Border Patrol data showed in the range of 10 million nationwide encounters, and that figure is imprecise because of overcounts and "people who are not turned back or apprehended after making an illegal entry").

[92] See E.O. 14159, Protecting the American People Against Invasion, Section 1. Purpose, 90 FR 8443 (Jan. 29, 2025; *see also* Adam Shaw, Fox News, *Over 1.7M migrants who could pose national security risk arrived in US during Biden admin: report* (Oct. 3, 2024), https://www.foxnews.com/politics/over-1-7-million-migrants-who-could-pose-national-security-risk-arrived-us-biden-admin-report (citing an Oct. 3, 2024 House of Representatives Judiciary Committee report on The Biden-Harris Border Crisis: At Least 1.7 Million Potential National Security Threats).

[93] *See* E.O. 14159, Protecting the American People Against Invasion, Section 1. Purpose, 90 FR 8443 (Jan. 29, 2025; *see also* Simon Hankinson, The Heritage Foundation, *Biden's Border Crisis Promotes Foreign Espionage in Plain Sight* (May 31, 2024). https://www.heritage.org/border-security/commentary/bidens-border-crisis-promotes-foreign-espionage-plain-sight (arguing that asylum provides an avenue for employment authorization that attracts Chinese nationals who are primed to become espionage assets).

[94] *See* E.O. 14159, Protecting the American People Against Invasion, Section 1. Purpose, 90 FR 8443 (Jan. 29, 2025.

employment authorization in under one year.[95] The overwhelming flood of EAD applicants continues to bog down USCIS processing times and adjudicative resources.

To address this unmanageable influx of EAD applications, which was largely caused by the prior administration's policies that allowed a significant number of aliens to enter the country on parole and seek asylum and/or TPS, and alongside such applications, employment authorization, DHS issued two temporary rules and a final rule to triple the automatic extension period from a maximum of 180 days to a maximum of 540 days. The 2024 final rule made this change permanent in order to try to reduce the impact of potential future renewal EAD processing backlogs based on events that had not yet materialized, but could happen in the future – thus, the final rule was based on speculative assumptions given the operational realities at USCIS at the time.[96]

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.[97] In other words, while these applicants were screened in the context of their initial EAD application(s), the automatic extensions allows them to have their EADs extended, for up to 540 days, without the complete and proper vetting that would be done when adjudicating the renewal application. This delay

---

[95] *See* DHS, USCIS, *Number of Service-wide Forms By Quarter, Form Status, and Processing Time* (July 1 – Sept. 30, 2023), https://www.uscis.gov/sites/default/files/document/forms/quarterly_all_forms_fy2023_q4.pdf (last visited Sept. 22, 2025) (showing that USCIS approved almost 3 million Forms I-765 during the data period). *See also Annual Statistical Report FY2023*, p.14 (acknowledging that in "FY 2023, USCIS received over 3.5 million applications for employment authorization, 50 percent more than the previous year, and completed over 3.4 million applications, 45 percent more than in FY 2022."), https://www.uscis.gov/sites/default/files/document/reports/fy2023_annual_statistical_report.pdf.

[96] *See* 89 FR 101208, 101245 (noting "the purpose of this final rule is to provide a long-term solution to mitigate the potential for unpredictable circumstances to significantly increase renewal EAD application processing times that would require future urgent action).

[97] *See, e.g.*, 89 FR 101208, 101224 (Table 7, showing that, as of February 2024, USCIS had approximately 439,000 pending renewal EAD requests in the categories eligible for automatic extension, and the number was projected to grow given that USCIS received an average of approximately 52,800 additional automatic extension-eligible renewal EAD applications per month in FY 2023, which exceeded the approximately 49,100 automatic extension-eligible renewal EAD application completions per month at that time).

could impede DHS from timely identifying derogatory information or other concerns that may have arisen since the adjudication of the initial EAD.

Through this IFR, DHS intends to address prior policy decisions that, as described in the preceding sections, resulted in the filing of over 3 million EAD applications, resulting in substantial backlogs across all EAD adjudications.[98]

This administration's priority is the robust vetting of all aliens in our country to better protect the safety of American workers and the public at large. This rule will enhance public safety by ensuring proper vetting before issuing renewal EADs, which are important benefits, and improve program integrity. DHS is enhancing its vetting and screening efforts, increasing its ability to detect aliens with potentially harmful intent, deter fraud, and place removable aliens into proceedings. USCIS uses all provisions under the law, to the extent permissible under the law, to deny benefits to those who are a risk to public safety and national security. This rulemaking ends the practice of automatically extending the validity of employment authorization documents, so that DHS can take appropriate action before an immigration benefit is again provided to an alien.

The need to conduct complete and thorough vetting of applicants for renewal EADs to mitigate potential risks to public safety and national security became abundantly clear on June 1, 2025, when an alien firebombed and assaulted demonstrators at a peaceful Jewish event to support hostages in Gaza.[99] The alien threw Molotov cocktails that burned multiple victims, and his attack injured 15 people.[100] The alien had entered

---

[98] *See USCIS, Annual Statistical Report FY2023, p.14 (acknowledging that in "FY 2023, USCIS received over 3.5 million applications for employment authorization, 50 percent more than the previous year, and completed over 3.4 million applications, 45 percent more than in FY 2022."), https://www.uscis.gov/sites/default/files/document/reports/fy2023_annual_statistical_report.pdf.*

[99] *See* Colleen Slevin and Jesse Bedayn, Man Accused of Yelling 'Free Palestine' and Firebombing Demonstrators Charged with Attempted Murder, The Associated Press, June 5, 2025, https://apnews.com/article/boulder-firebombing-attack-9820f4b51d73efc3da72150b80634ea2 (last visited June 16, 2025).

[100] *Id.*

the United States in August 2022 and remained in the United States beyond the expiration of his nonimmigrant status.[101] He applied for asylum in September 2022, and that application was still pending at the time of the attack.[102] He also obtained an EAD based on a pending asylum application which was then automatically extended for a period of up to 540 days.[103] This attack by an alien against peaceful demonstrators highlights the critical need and urgency to ensure that aliens are not provided immigration benefits in the United States without thorough vetting and more frequent determinations of continued eligibility and, when applicable, determinations that the alien continues to merit a favorable exercise of discretion.

DHS has determined that the automatic extension of EADs provides a significant benefit to aliens without adequate vetting and is therefore not consistent with the E.O.s and the administration's priorities. The automatic extension of an EAD grants the benefit of extending an alien's expired EAD and/or employment authorization merely by filing a timely renewal EAD application and without first completing adjudicative review and related vetting, including resolution of any derogatory information identified during the vetting process. That is, it grants the benefit without a concurrent eligibility determination; without concurrently completing vetting and screening checks; without resolving potential hits of derogatory information in connection with the alien; and

---

[101] USCIS, CBP, ICE, and USCIS to Ramp Up Crackdown on Visa Overstays Following Boulder Terrorist Attack, June 4, 2025, https://www.uscis.gov/newsroom/news-releases/cbp-ice-and-uscis-to-ramp-up-crackdown-on-visa-overstays-following-boulder-terrorist-attack (last visited June 16, 2025); *see also* DHS, Secretary Noem Announces ICE Detains Boulder Terrorist Soliman's Family, June 4, 2025. https://www.dhs.gov/news/2025/06/04/secretary-noem-announces-ice-detains-boulder-terrorist-solimans-family (last updated June 5, 2025); s*ee* Adam Sabes, Timeline Exposes Boulder Suspect's Movements Before Allegedly Carrying out Firebomb Attack on Pro-Israel Group, Fox News, June 3, 2025, https://www.foxnews.com/us/timeline-exposes-boulder-suspects-movements-before-allegedly-carrying-out-firebomb-attack-pro-israel-group (last visited June 16, 2025).

[102] *See* DHS, Secretary Noem Announces ICE Detains Boulder Terrorist Soliman's Family, June 4, 2025, https://www.dhs.gov/news/2025/06/04/secretary-noem-announces-ice-detains-boulder-terrorist-solimans-family (last visited June 4, 2025).

[103] *See* NBC Washington, US immigration authorities detain family of Colorado Molotov attack suspect, June 3, 2025, https://www.nbcwashington.com/news/national-international/colorado-attack-backed-off-zionist-scared/3927308/?os=io....sxj9oul93fno_journeystrue&ref=app&noamp=mobile (last visited June 16, 2025).

without a determination that the employment authorization should be renewed in the exercise of discretion, when applicable. As stated previously, without this IFR, aliens could still obtain an automatic extension despite derogatory information that could flag them as a national security or public safety risk. The automatic extension therefore poses a security vulnerability that could allow bad actors to continue to work and generate income to potentially finance nefarious activities that pose an imminent threat to the American public.

For these reasons, DHS is amending its regulations to no longer provide automatic extension of EADs for renewal applicants who have timely filed Form I-765, Application for Employment Authorization (Form I-765). *See* new 8 CFR 274a.13(e).

2. Impact of the EAD Automatic Extension Final Rule on Employment Authorization Eligibility

In addition to concerns with vetting to better protect the safety and security of the United States, DHS, and specifically USCIS, is charged with ensuring that only those aliens who are eligible are granted employment authorization and/or an EAD. This was highlighted in E.O.14159, Protecting the American People Against Invasion, where the Secretary was directed to ensure "that employment authorization is provided in a manner consistent with section 274A of the INA (8 U.S.C. 1324a), and that employment authorization is not provided to any unauthorized alien in the United States."[104]

As stated previously, prior DHS rules codified automatically extending employment authorization and/or an EAD for a period of up to 540 days. This grant occurs before USCIS determined that the alien continues to be eligible for the benefit sought and, when applicable, continues to merit a favorable exercise of discretion. For the reasons discussed above, DHS now believes this is a security vulnerability, and that the risk posed by such a vulnerability outweighs the benefit provided by automatically

[104] *See* 90 FR 8443, 8446.

extending employment authorization and/or EADs. Furthermore, with automatic extensions of employment authorization and/or EADs, employers are more vulnerable to inadvertently employ aliens that do not have employment authorization because the employer is dependent on the truthfulness of the alien in reporting whether the renewal EAD request was approved or denied prior to the end of the 540-day automatic extension.

During the prior rulemakings, DHS has recognized the risks associated with lengthy automatic extension of employment authorization; DHS acknowledged that the longer the period of time before an employer has to reverify an alien employee whose employment authorization is automatically extended, the greater the risk that the employer could unknowingly employ someone whose employment authorization has ended.[105] Renewal EAD applications are filed by the alien, so employers do not typically know when or if the application is approved or denied; employers rely on the employee to provide the information. The employer also relies on a non-secure document presented by the alien when the alien's employment authorization is based on an automatic extension.[106]

### B. Administration Policies to Reduce EAD Filings Overall

As discussed above, there was an unprecedented flood of illegal immigration into the United States during the prior administration. This, in turn, encouraged a historically high influx of EAD applications, resulting in over three million applications being filed

---

[105] *See* 89 FR 24628, 24648 (Apr. 8, 2024).

[106] Increasing the automatic extension period also frustrates the ability of state agencies to issue benefits such as driver's licenses for aliens, but also for others owing to the delays that seeking SAVE verification of immigration status causes. *See* 89 FR 101208, 101240 (explaining that a commenter raised a concern that, although USCIS is making improvements to the SAVE system, many cases presented to front-line motor vehicle service clerks require additional verifications that cannot be verified at the time of transaction if the document presented to show immigration status is an automatically extended EAD. Manual verification by SAVE (also called ''additional verification'') can require applicants to revisit service locations to repeat transactions and disrupt the ability of the states to serve other customers as they explain the need for additional verification).

within one year.[107] The overwhelming flood of EAD applicants bogged down USCIS processing times and adjudicative resources.

It is the policy of the Trump Administration "to faithfully execute the immigration laws against all inadmissible and removable aliens, particularly those aliens who threaten the safety or security of the American people."[108] Pursuant to this policy, the Secretary of DHS, in collaboration with the Secretary of State and the Attorney General have been directed by the President to "rescind the policy decisions of the previous administration that led to the increased or continued presence of illegal aliens in the United States, and align any and all departmental activities with the policies set out by this order and the immigration laws" including by "ensuring that the parole authority under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) is exercised on only a case-by-case basis in accordance with the plain language of the statute" and by "ensuring that designations of Temporary Protected Status are consistent with the provisions of section 244 of the INA (8 U.S.C. 1254a), and that such designations are appropriately limited in scope and made for only so long as may be necessary to fulfill the textual requirements of that statute."[109]

DHS has already taken a number of actions in support of these directives.[110] Accordingly, DHS does not anticipate a further influx of initial and renewal EAD applications that will overwhelm USCIS adjudicative resources. Thus, in addition to the serious concerns relating to automatic EAD extensions discussed previously, given that DHS has taken the above described measures addressing floods of filings from TPS and other applicants, DHS expects that overall EAD filing rates (initials and renewals) are

---

[107] *See* USCIS, *Annual Statistical Report FY2023*, p.14 (acknowledging that in "FY 2023, USCIS received over 3.5 million applications for employment authorization, 50 percent more than the previous year, and completed over 3.4 million applications, 45 percent more than in FY 2022."), https://www.uscis.gov/sites/default/files/document/reports/fy2023_annual_statistical_report.pdf.
[108] 90 FR 8443, 8446.
[109] *See* 90 FR 8443, 8446.
[110] *See, e.g., Termination of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans,* 90 FR 13611 (Mar. 25, 2025); *Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status*, 90 FR 9040 (Feb. 5, 2025); *Special Immigrant Juvenile Classification and Deferred Action*, USCIS Policy Alert (June 6, 2025) https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf (last accessed June 13, 2025).

likely to substantially decline, freeing up adjudicative resources to reduce renewal EAD processing times and the need for renewal EAD applicants in the longer term to rely on an automatic extension of their EAD to avoid lapses in employment authorization and/or EADs due to processing delays.

### C. IFR Impact on Aliens and Employers

1. Reliance Interests

DHS is cognizant that the current regulatory and policy framework involving renewal EAD applications and automatic extensions may have engendered reliance interests. Aliens, their families, and employers may have relied on the automatic extensions to maintain the alien's continuous employment authorization and/or EADs and to avoid lapses in employment authorization that may be detrimental to the alien, their family's finances, and their employer's operations.[111] Some aliens may have also relied on the automatic extension of their EAD to obtain other forms of identification, such as driver's licenses.[112] DHS is mindful of the disruption that may occur when employment authorization and/or EADs temporarily lapse.

However, as explained below, 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. DHS notes that

---

[111] DHS acknowledges 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. *See* 89 FR at 101224.

[112] DHS also acknowledges 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. *See* 89 FR at 101225; *see* Real ID Act of 2005, Pub. L. 109-13, div. B. Title II, Sec. 201(3) (May 11, 2005); 6 CFR 37.11(c). Following the full implementation of REAL ID requirements, if an individual chooses to present a state-issued driver's license or identification card for defined official purposes, including access to certain Federal facilities and boarding federally regulated commercial aircrafts, the driver's license or identification card must be REAL-ID compliant. DHS reasoned that without the automatic extension of the EAD, these aliens may not be able to obtain REAL-ID compliant driver's licenses or identification cards. Given the security posture of this country at this time, DHS believes it is utterly unwise to allow aliens, such as the alien in Boulder, Colorado, who was an asylum applicant, to obtain identification cards and driver's licenses based on an expired EAD that is automatically extended by a Form I-797C receipt notice that was issued without having more recently assessed the alien's continued eligibility and potential for security risk – especially if these REAL ID cards provide access to Federal Facilities and our airports.

with this rule, DHS is merely discontinuing the practice of providing an automatic extension of the EAD or employment authorization upon the filing of a renewal EAD application, because it grants a benefit without an eligibility determination, without completing vetting and screening checks, and without resolving the potential hits and derogatory information. This IFR does not remove the ability of aliens to obtain a renewal of their EADs and/or employment authorization. DHS is also not preventing eligible aliens from obtaining EADs for purposes such as proof of identity.

Furthermore, DHS and USCIS have been provided with considerable flexibility by Congress under sections 103(a) and 274A of the INA, 8 U.S.C. 1103(a) and 1324a, among other provisions, to administer and enforce the INA, including the granting of employment authorization and the issuance of EADs. There is no explicit statutory mandate that requires DHS to provide an automatic extension of EAD validity and/or employment authorization for aliens filing renewal EAD applications under 8 CFR 274a.12(a) or (c).

Additionally, the issuance of a renewal EAD and/or employment authorization depends in large part on the applicant's timely filing of a renewal EAD application. The proper planning by the alien and the employer, and monitoring of EAD processing times, may allow the alien to timely file a renewal EAD application as soon as eligible, thus mitigating the risk for the alien, the alien's family, as well as the employer that the alien will experience prolonged lapses in their EAD validity and/or employment authorization. Proper planning may ameliorate the risk of losing valid employment authorization, as well as the disruption and associated instability with business continuity or other financial harm for employers and the community as a whole.

DHS believes this rule will increase the security posture of the United States as an alien's EAD validity and employment authorization will only be extended based on the issuance of a secure document issued after USCIS has determined that the applicant is

eligible for the renewal EAD and warrants a favorable exercise of discretion, if applicable. As DHS noted in the 2024 Final Rule[113] and the preceding 2024 Temporary Final Rule,[114] DHS opted for an automatic extension period of no more than 540 days, to limit the amount of time employers would have to rely on a non-secure document, such as Form I-797C, Notice of Action, to assess the applicability of the automatic extension and run the risk of unwittingly continuing to employ a worker whose employment authorization is in fact no longer valid. Having one document only – a secure EAD card – may eliminate confusion for employers and other agencies for purposes of Form I-9 verification, issuing of driver licenses, or other benefits in the United States. This helps ensure that only aliens whose eligibility has been fully determined and background vetted are in possession of this important document that has the potential to grant access to many locations, including federal facilities and airports.

Thus, 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. Any reliance interest in the current regulatory framework and policy does not outweigh the need to protect public safety and the integrity of immigration benefits and employment authorization.

---

[113] *See* 89 FR 101208, 101232–33.
[114] *See* 89 FR 24628, 24648.

2. Alternatives Considered

DHS considered returning to the up to 180-day automatic extension period, issuing interim EAD cards again, or delaying the issuance of this rule. DHS recognizes that these measures might reduce the impact on the affected regulated public and the public as a whole. However, these alternatives suffer the same flaws as the up to 540-day automatic extension. The automatic extension of an EAD, whether for 180 days, 540 days, or through the issuance of an interim EAD, grants the benefit of extending an alien's expired EAD and/or employment authorization merely by filing a timely renewal EAD application and without USCIS first completing adjudicative review and related vetting for the renewal, including resolution of any derogatory information identified during the vetting process. That is, it grants the benefit without an eligibility determination, without resolving potential hits of derogatory information in connection with the aliens, and without a determination that the employment authorization should be granted in the exercise of discretion, when applicable. If DHS pursued these options, aliens with derogatory information flagged during the background check process would nevertheless still obtain an automatic extension of 180 days, or an interim EAD, even if derogatory information cannot be reviewed and resolved, and their application denied, before the alien's EAD expires. These automatic extensions therefore pose a security vulnerability that could allow bad actors to continue to work and generate income to potentially finance nefarious activities that pose an imminent threat to the American public.

3. Employment Authorization Verification

This rule does not modify the current requirements an employer must follow for Form I-9 at 8 CFR 274a.2(b)(1)(vii) for reverifying employment authorization and documentation. USCIS, in general, issues Form I-797C, Notices of Action for any benefit request USCIS receives. The I-797C acknowledges receipt of the benefit request, to

include the filing date, and provides general information to the applicant. To conform to the changes made by this rule, Notices of Action issued on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], will no longer contain information regarding automatic extensions of employment authorization documentation. Instead, USCIS will add appropriate information to the Notices of Action clearly indicating that the document is not evidence of employment authorization and cannot be used by itself or in conjunction with an expired EAD as proof of employment authorization. USCIS will also update I-9 Central on the USCIS website and the *Handbook for Employers*, M-274 to provide employees and employers with specific guidance on Form I-9 completion.

DHS will also inform other agencies that renewal EAD applicants will no longer receive an automatic extension of their EAD and/or employment authorization if they file their renewal EAD application on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. *See* 8 CFR 274a.13(e). If another agency accepts EADs for any purposes (such as identity or, in some situations, immigration status), then the agency should generally no longer consider as valid any unexpired EADs that bear a date that demonstrates that the EAD is expired (that are "facially expired"), unless the applicant presents a Form I-797C, Notice of Action Receipt demonstrating that the alien had timely ( such as, before the EAD expired) filed a renewal EAD application before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Benefits granting agencies that are registered to use the SAVE[115] program to verify immigration status will receive a result that indicates an expiration date of employment authorization (if any)[116] that does not include the up to 540-day automatic extension period.

---

[115] SAVE is a program administered by USCIS and is used by Federal, state, and local benefit granting agencies to verify the immigration status of their benefit applicants in order for the agency to determine eligibility for the benefits they administer. *See* USCIS, About SAVE, https://www.uscis.gov/save/about-save/about-save (last visited June 16, 2025)

[116] For example, in the case of an asylee, the SAVE response is "asylee EA indefinite."

### D. Conclusion

Ending the practice of providing automatic extension of employment authorization documents enhances benefit integrity in adjudications of work authorization requests and will better protect public safety and national security by ensuring that aliens are properly vetted and determined to continue to be eligible, and when applicable, merit a favorable exercise of discretion, for employment authorization before such authorization is provided to the alien.

### E. Description of Regulatory Changes: Adding New 8 CFR 274a.13(e) and Modifying the Heading of 8 CFR 274a.13(d)

1. Adding New 8 CFR 274a.13(e)

With this IFR, DHS is amending 8 CFR 274a.13 to add a new paragraph (e) that will be in effect immediately with the publication of this rule. With the new paragraph, DHS is eliminating the practice of providing automatic extension periods for EAD validity and/or employment authorization for up to 540 days for renewal applications filed on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Therefore, renewal EAD applicants will no longer receive an up to 540-day automatic extension of their EAD and/or employment authorization if they file their application on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. *See new* 8 CFR 274a.13(e).

Except as otherwise provided by law, in 8 CFR 274a.13(d), or in accordance with applicable Federal Register notice regarding procedures for renewing TPS-related employment documentation, an alien's EAD validity and/or an alien's attendant employment authorization will expire as follows: For those aliens who are employment authorized incident to status under 8 CFR 274a.12(a), unless otherwise provided by law, their EAD will expire on the date after the end validity date stated on the face of the EAD. *See* new 8 CFR 274a.13(e)(1). Because the alien's employment authorization is tied to the alien's status in the United States, the employment authorization will expire or

terminate when the alien's status in the United States expires or terminates. For example, an alien in L-2 nonimmigrant status as the spouse of an L-1 nonimmigrant is employment authorized incident to status.[117] If the L-2 nonimmigrant chooses to apply for an EAD to evidence his or her employment authorization, the EAD will expire as of the date indicated on the EAD card. In some cases that may be the same date as the expiration of the L-2's nonimmigrant status. But in other cases, the L-2 status expiration date may be after the EAD expiration date, particularly if the L-2 nonimmigrant travelled outside of the United States after obtaining an EAD and, upon return to the United States, was provided a new status expiration date that will expire after the EAD expires.[118] In that scenario, the L-2 nonimmigrant would remain employment authorized while in L-2 nonimmigrant status, even after the EAD expires, but the expired EAD would no longer be a valid document to evidence the L-2 nonimmigrant's employment authorization.[119] Once the alien is no longer in L-2 status (for example, the L-2 nonimmigrant status expires), the alien would no longer be employment authorized as an L-2 nonimmigrant because such employment authorization is dependent on being in L-2 nonimmigrant status.

For aliens who are not employment authorized incident to their immigration status and who instead must obtain employment authorization from USCIS pursuant to 8 CFR 274a.12(c), before accepting employment in the United States, such as adjustment of status applicants or aliens with a pending asylum application, USCIS determines the length of the period of employment authorization in the exercise of its discretion and thereafter, issues an EAD reflecting the validity period.[120] Therefore, the EAD will expire

---

[117] *See* INA sec. 214(c)(2)(E), 8 U.S.C. 1184(c)(2)(E).
[118] In this case, the new status expiration date is the date stated on the alien's Form I-94, Arrival Departure document.
[119] An L-2 can still have other evidence of documentation of work authorization, such as a Form I-94, Arrival/Departure Record, designated with the L-2S classification.
[120] Employment authorization granted pursuant to 8 CFR 274a.12(c) is generally granted in the discretion of the Secretary. *See* 8 CFR 274a.13(a)(1) ("The approval of applications filed under 8 CFR 274a.12(c), except for 8 CFR 274a.12(c)(8), are within the discretion of USCIS.").

and the employment authorization will terminate the day after the end validity date stated on the face of the EAD, in the situations outlined in 8 CFR 274a.14, or for TPS applicants pursuant to section 244 of the Act and 8 CFR part 244.[121] *See* new 8 CFR 274a.13(e)(2).

For example, an alien with a pending adjustment of status application (Form I-485) is in possession of an EAD that expires on December 15, 2025. The alien's adjustment of status application has not yet been adjudicated and continues to be pending. The alien is eligible to apply for a renewal EAD based on the pending adjustment of status application. The alien applies for a renewal of the EAD after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The alien will maintain continuous employment authorization if his or her renewal application is granted by the time his or her current employment authorization expires on December 15, 2025. If the renewal EAD application remains unadjudicated on December 16, 2025, the alien cannot continue to work for his or her employer on or after December 16, 2025, unless the alien is employment authorized on a separate basis. *See* new 8 CFR 274a.13(e). If the renewal EAD application is subsequently approved, the alien would again be employment authorized and may resume employment during the validity period stated on the new EAD. The longer an alien waits to file a renewal EAD application, the more likely it is that he or she may experience a temporary lapse in his or her EAD validity and/or employment authorization.

2. Modifying the heading of 8 CFR 274a.13(d)

On December 13, 2024, DHS published a final rule amending 8 CFR 274a.13(d) to permanently increase the automatic extension period for certain employment authorization and/or EAD validity. The rule became effective on January 13, 2025.[122]

---

[121] For example, employment authorization may also end prior to the expiration date displayed on the EAD, in accordance with 8 CFR 274a.14, if exclusion or deportation proceedings are instituted against the alien; if a condition upon which the EAD was granted has not been met or no longer exists; or upon a showing that the information contained in the request for an EAD was not true and correct.

[122] *See* 89 FR 101208 (Dec. 13, 2024).

DHS is retaining the provision granting an automatic extension for those aliens who had timely filed a renewal EAD request and who meet the requirements of 8 CFR 274a.13(d). To avoid confusion between the automatic extension period granted under 8 CFR 274a.13(d) for those renewal EAD requests filed prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], and those filed after the publication of this rule, DHS is amending existing 8 CFR 274a.13(d) by revising the paragraph's heading to reflect that the paragraph applies to renewal requests properly filed before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. With this IFR, DHS is not otherwise amending the provision.

This will ensure that this IFR does not retroactively affect those aliens who have already timely and properly filed a renewal EAD application before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For these aliens, an EAD that appears on its face to be expired ("facially expired") is considered unexpired under this IFR for up to 540-days from the expiration date on the front of the EAD when combined with a Notice of Action (Form I-797C) indicating timely filing (i.e., the receipt notice for the Form I-765 issued by USCIS has a receipt date that is prior to the expiration date on the EAD case and before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]) of the renewal application based on the same employment eligibility category as stated on the facially expired EAD (or in the case of an EAD and I-797C notice that contains either an A12 or C19 category code, the category codes need not match). In those cases, the alien's facially expired EAD is considered unexpired for the up to 540-day period from the date of the EAD.[123] USCIS will update the web page on the USCIS website with the appropriate information. USCIS will also update I-9 Central

[123] If an adjustment of status applicant's (C09) EAD card is combined with the advance parole authorization, i.e., the applicant is issued a combo card (in this case, the EAD itself has an annotation "SERVES AS I-512 ADVANCE PAROLE"), the up-to 540-day automatic extension under 8 CFR 274a.13(d) does not apply to the advance parole part of the applicant's combo card.

on the USCIS website and the Handbook for Employers, M-274, to provide employers and employees with additional guidance.

DHS also reminds the public that the automatic extension applies to EADs; therefore, if another agency accepts unexpired EADs for any purposes (such as establishing identity or, in some situations, immigration status) then the agency should generally accept the EADs that are automatically extended under 8 CFR 274a.13(d). That is even if the EAD presented by the alien is facially expired, the EAD is automatically extended if the alien can present a Form I-797C receipt notice which indicates that the alien timely filed (i.e., before the EAD expired) a renewal EAD application before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Finally, DHS also reminds aliens that under existing 8 CFR 274a.13(d), DHS retains the ability to otherwise terminate any employment authorization and/or EAD, or extension period for such employment authorization and/or EAD, by written notice to the applicant, by notice to a class of aliens published in the Federal Register, or as provided by statute or regulation, including 8 CFR 274a.14.

**F. Severability**

In issuing this IFR, it is DHS's intention that the rule's various provisions be considered severable from one another to the greatest extent possible. For instance, if a court of competent jurisdiction were to hold that ending the practice of automatically extending the validity of employment authorization and/or EADs for aliens who have timely filed an application to renew their employment authorization and/or EAD in certain employment categories may only be applied to a particular category of renewal EAD applicants or in a particular circumstance, DHS would intend for the court to leave the remainder of the rule in place with respect to all other covered persons and circumstances. DHS' overarching goal is to militate against threats to national security and public safety and to ensure that employment authorization and/or EADs are provided

only after USCIS conducts adequate vetting and determines that the alien continues to be eligible and, when applicable, merits a favorable exercise of discretion.

## V. Statutory and Regulatory Requirements

### A. Administrative Procedure Act

DHS has issued this IFR without prior notice or public procedure because DHS is invoking the "good cause" exception of the APA. *See* 5 U.S.C. 553 (b)(B). Furthermore, the regulatory amendment involves a foreign affairs function under 5 U.S.C. 553(a)(1). For the same reasons, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

1. Good Cause

An agency may forgo notice and comment rulemaking and a delayed effective date when the agency "for good cause finds. . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." *See* 5 U.S.C. 553(b)(B). Likewise, section 553(d)'s requirement of 30-day advance publication may be waived by the agency for good cause found and published with the rule. *See* 5 U.S.C. 553(d)(3).

The "impracticable" prong of the good cause exception excuses notice and comment in emergency situations, or where the delay caused by the APA's notice and comment procedures would result in serious harm to life, property or an immediate threat to public safety.[124] Although the good cause exception is "narrowly construed and only reluctantly countenanced,"[125] it is an important safety valve to be used where delay caused by notice and comment would do real harm (even absent an emergency

---

[124] *See Nat. Res. Def. Council v. Nat'l Highway Traffic Safety Admin*, 894 F.3d 95, 114 (2d Cir. 2018); *see Jifry v. FAA*, 370 F.3d 1174, 1179 (D.C. Cir. 2004) (finding good cause for the promulgation of security rules in the aftermath of 9/11 terrorist attacks); *see also Util. Solid Waste Activities Grp. v. EPA*, 236 F.3d 749 (D.C. Cir. 2001).

[125] *See State of New Jersey v. EPA*, 626 F.2d 1038, 1045 (D.C. Cir. 1980); *see also Am. Fed. Gov't Emps. v. Block*, 655 F.2d 1153, 1156 (D.C. Cir. 1981) ("As the legislative history of the APA makes clear, moreover, the exceptions at issue here are not 'escape clauses' that may be arbitrarily utilized at the agency's whim. Rather, use of these exceptions by administrative agencies should be limited to emergency situations. . .").

situation).[126] An agency may find that advance notice and comment or a delayed effective date is "impracticable" when undertaking such procedure would impede due and timely execution of an important agency function.[127] For example, courts have explained that notice and comment rulemaking may be impracticable where, for instance, air travel security would be unable to address threats posing a "possible imminent hazard to aircraft, persons and property within the United States;"[128] if a rule was of life-saving importance to mine workers in the event of a mine explosion;[129] if public safety is jeopardized;[130] or in case of an urgency related to an international crisis and national security.[131] Impracticability is inevitably a fact-or-context dependent inquiry.[132]

The good cause exception may also apply when affording prior notice and comment would be contrary to the public interest. *See* 5 U.S.C. 553(b). This prong is met when the ordinary procedures under the APA – generally presumed to serve in the public interest – would in fact harm the interest of the public.[133] The exception is appropriately invoked when the timing and the disclosure requirement of the usual procedures would

---

[126] *See U.S. v. Dean*, 604 F.3d 1275, 1379 (11th Cir. 2010); *United States Steel Corp. v. United States Environmental Protection Agency,* 595 F.2d 207, 214 (5th Cir.1979).
[127] *See, e.g., Jifry v. FAA*, 370 F.3d 1174, 1179-90 (D.C. Cir. 2004) (excusing APA 553 procedures for a regulation governing the suspension and revocation of airman certificates of aliens for security reasons, finding that the agency had legitimate concerns over the threat of further terrorist acts involving aircrafts, and that notice and comment would have delayed the ability of TSA and the FAA to take effective action); *see also Tri-Cty. Tel. Ass'n, Inc. v. FCC*, 999 F.3d 714, 719-20 (D.C. Cir. 2021) (per curiam) (sustaining a finding of good cause because the damage from hurricanes and upcoming hurricanes created an emergency sufficient to make notice and comment impracticable to issue funds).
[128] *See Jifry v. FAA*, 370 F.3d 1174, 1179 (D.C. Cir. 2004).
[129] *See Council of the S. Mountains, Inc. v. Donovan*, 653 F.2d 573, 581 (D.C.Cir.1981).
[130] *See United States v. Dean*, 604 F.3d 1275 (11th Cir. 2010) (finding that the Attorney General's public safety justification was good cause for bypassing the notice and comment requirements of the Administrative Procedure Act (APA) in promulgating interim rule making the Sex Offender Registration and Notification Act (SORNA) registration retroactive to all sex offenders convicted prior to SORNA's enactment).
[131] *See Malek-Marzban v. Immigr. & Naturalization Serv*., 653 F.2d 113, 116 (4th Cir. 1981) (Upholding the agency's finding that notice and comment procedures were impracticable, unnecessary, and contrary to the public interest when swift action was needed to regulate the presence of aliens in light of the urgency of the international crisis.")
[132] *See Mid-Tex Elec. Co-op., Inc. v. FERC*, 822 F.2d 1123, 1132 (D.C. Cir. 1987).
[133] *See Mack Trucks, Inc. v. EPA*, 682 F.3d 87, 95 (D.C. Cir. 2012).

defeat the purpose of the proposal and harm the public interest.[134] This prong of the good cause exception is closely related to the impracticable prong.

For the reasons explained below, DHS believes that, based on the totality of the circumstances, it has good cause to bypass ordinary notice-and-comment procedures because following these public procedures is impracticable and moving expeditiously is in the best interest of the public. As outlined throughout this rulemaking and in accordance with the directive issued by President Trump in his Executive Orders 14159 and 14161,[135] the influx of migrants that came to the United States, in part motivated by the attractiveness of interim benefits such as employment authorization and lengthy automatic extensions, has created a significant security risk.

The automatic extension of an EAD grants the benefits of extending an alien's expired EAD and/or employment authorization merely by filing a timely renewal EAD application without an eligibility determination for the renewal, without resolving potential hits of derogatory information in connection with the aliens, and without a determination that the employment authorization should be granted in the exercise of discretion, when applicable. Aliens with derogatory information flagged during the background check process may nevertheless still obtain an automatic extension even if derogatory information cannot be reviewed and resolved, and their application denied, before the alien's EAD expires. The automatic extension therefore poses a security vulnerability that could allow bad actors to continue to work and generate income to potentially finance nefarious activities that pose an imminent threat to the American public.

---

[134] *Nat. Res. Def. Council v. Nat'l Highway Traffic Safety Admin*., 894 F.3d 95, 114 (2d Cir. 2018) ("Of course, since notice and comment are regarded as beneficial to the public interest, for the exception to apply, the use of notice and comment must actually harm the public interest").
[135] *See* E.O. 14161 (Jan. 20, 2025), 90 FR 8451 (Jan. 30, 2025).

The attack by an alien against peaceful demonstrators in Boulder, Colorado, highlights the critical and urgent need to act to mitigate the immediate risk posed to innocent Americans. Neither this administration nor the U.S. public have created this dire public safety emergency, and the situation is far from speculative, as the recent and grave events in Boulder, Colorado, have shown.

Thus, in accordance with President Trump's policy determinations related to foreign nationals, DHS is taking, without delay, immediate action to ensure that all aliens who are already in the United States are vetted and screened to the maximum degree possible, so that they do not receive significant benefits, such as an extension of employment authorization, without complete and proper vetting.

This rule ends the practice of providing automatic extension of EADs. An alien will not receive a renewal EAD until the alien has been thoroughly vetted in the context of the renewal application and USCIS determines that the alien remains eligible for the immigration benefit and, when applicable, continues to merit a favorable exercise of discretion. Therefore, this IFR removes a mechanism that aliens with malevolent intent can use to support criminal endeavors that pose an ongoing and imminent threat to public safety and national security. For renewals filed after the effective date of the rule aliens can no longer automatically extend, thereby preventing future use of a facially expired EAD card to obtain a driver's license or other identity documents which can give access to U.S. airways at airports, or allow them to obtain other State benefits.

If DHS were to announce the rulemaking, it is self-evident that aliens would rush to file renewal EAD applications to obtain automatic extensions before the rule takes effect. More aliens would thus obtain up to 540-day automatic extension without the proper vetting and determination by USCIS that the alien continues to be eligible and, when applicable, continues to merit a favorable exercise of discretion. Having to go

through notice and comment procedures and a 30-day delayed effective date would therefore defeat the purpose of this regulation and clearly harm the public interest.

DHS believes also that engaging in the APA's notice and comment procedures and having a 30-day delayed effective date in this situation would risk severe harm and would impede the due execution of USCIS's mission to ensure aliens are appropriately vetted and screened before USCIS grants a new period of employment authorization and issues important documents such as a new EAD. If DHS had to engage in advance notice and comment procedures, it would continue to allow aliens who wish to fund nefarious activities to continue to work and generate money. And as described above, these same aliens can obtain valid identity documents which makes it easier to commit conduct detrimental to the United States. These aliens are public safety and national security risks who can use the notice and comment period to timely file a renewal and be granted an automatic extension even if no longer eligible for renewal. Therefore, a notice and comment period and a delayed effective date can result in aliens who are not only ineligible, but also a threat to the United States, obtaining an automatic extension of up to 540 days.

DHS believes immediately ending the practice of providing automatic extensions of EADs based on the filing of a renewal EAD application improves program integrity by ensuring that employment authorization is provided in a manner consistent with the laws of the United States and allows the agency to properly perform its adjudicatory function and better protect public safety and national security.

Although DHS recognizes that ending the practice of automatically extending the validity of EADs for renewal applicants may have some adverse impact on some members of the public, DHS believes that the measure is a reasonable approach to avoid

the harms described in this rule immediately.[136] Measures to alleviate security risks for the U.S. public weigh heavily against the need of aliens and employers to prepare for the measures – precisely because without immediate implementation, it will lead to a flood of renewal EAD applications filed by aliens for the very purpose of obtaining the up to 540-day automatic extensions, and thus undermining public security and safety.

The American people expect the government to keep the public safe and to take timely action without undue delay, so that events such as the violence against the Jewish community in Boulder, Colorado, are prevented in the future. For these reasons, DHS has concluded that the good cause exceptions in 5 U.S.C. 553(b)(B) and (d)(3) apply to this IFR and that delaying the implementation of this rule until the conclusion of notice-and comment procedures and the delayed effective date would be impracticable and contrary to public interest.

2. Foreign Affairs

Agencies may forgo notice and comment rulemaking and a delayed effective date when the rulemaking involves a "military or foreign affairs function of the United States." *See* 5 U.S.C. 553(a)(1). The Secretary of State, on February 21, 2025,[137] determined that "all efforts, conducted by any agency of the federal government, to control the status, entry, and exit of people and the transfer of goods, services, data, technology, and any other items across the borders of the United States, constitutes a foreign affairs function of the United States under the APA, 5 U.S.C. 553."

DHS finds that granting EADs and employment authorization, including automatic extensions under 8 CFR 274a.13(d), is directly connected to the alien's status or authorized period of stay because eligibility for employment authorization and/or

[136] As explained in Section IV.C of this preamble, DHS expects that overall EAD filing rates (initial and renewals) are likely to substantially decline, thus reducing the need for aliens to rely on an automatic extension of their EAD and/or employment authorization.

[137] *See Determination: Foreign Affairs Functions of the United States*, 90 FR 12200 (Mar. 14, 2025)

documentation is dependent upon the alien's status or circumstance.[138] Because the grant of employment authorization and/or EADs is inherent to the control of an alien's status, and affects the transfer of goods, including money, across the U.S. border, it falls within the Secretary's foreign affairs determination. Eliminating the practice of providing automatic extensions based on the filing of a renewal EAD application is also part of the implementation of the President's foreign policy directives, thus further implicating a foreign affairs function.[139]

Moreover, although the text of the APA does not expressly require an agency to show that the activities related to the rulemaking may result in "definitely undesirable international consequences," some courts required such a showing, and DHS can make one here.[140]

As explained throughout this preamble, the policy of issuing unvetted automatic extensions of employment authorization and/or EAD for up to 540 days, coupled with the prior administration's migration policies, has caused aliens to stream into this country and to obtain immigration benefits. It has created a migration and national security crisis as demonstrated by the recent events in Boulder, Colorado. Ending the practice of

---

[138] *See* 8 CFR 274a.12.

[139] The Secretary of State's determination references and implements numerous Presidential actions reflecting the President's top foreign policy priorities, including E.O. 14161. *See Determination: Foreign Affairs Functions of the United States*, 90 FR 12200 (Mar. 14, 2025). As noted, in E.O. 14161, the Secretary of Homeland Security, in coordination with the Attorney General and the Secretary of State, is directed to take all appropriate action to reestablish a uniform baseline for vetting and screening standards and procedures and vet and screen, to the maximum degree possible, all aliens, including aliens who are inside the United States. *See also* E.O. 14158, Section 16 (directing the Secretary, in coordination the Secretary of State and the Attorney General, to take all appropriate action, to rescind policy decisions and align activities in accordance with the order, including ensuring that employment authorization is not provided to unauthorized aliens in the United States); *see, e.g., Am. Ass'n of Exps. & Imps.-Textile & Apparel Grp. v. United States*, 751 F.2d 1239, 1249 (Fed. Cir. 1985) (noting that the foreign affairs exception covers agency actions "linked intimately with the Government's overall political agenda concerning relations with another country"); *Yassini v. Crosland*, 618 F.2d 1356, 1361 (9th Cir. 1980) (because an immigration directive "was implementing the President's foreign policy," the action "fell within the foreign affairs function and good cause exceptions to the notice and comment requirements of the APA").

[140] *See, e.g., Rajah v. Mukasey*, 544 F.3d 427, 437 (2d Cir. 2008). Other courts have held that this exemption applies when the rule in question clearly and directly involves foreign affairs functions. *See, e.g., City of New York v. Permanent Mission of India to the United States*, 618 F.3d 172, 202 (2d. Cir. 2010); *see also Yassini*, 618 F.2d 1356, 1360 n.4. *See id.* This is the case with this rule, which meets both standards utilized by courts as explained throughout.

providing automatic extensions of employment authorization based on the filing of a renewal EAD application and issuing employment authorization only after having fully assessed eligibility and the alien's background in the context of the renewal application is an important piece in the administration's effort to restore safety and security for the American people and to bring DHS' practice into conformity with the President's foreign policy related to immigration.[141]

DHS also finds, consistent with the Secretary of State's determination, that ending the practice of issuing automatic extensions of EADs involves "the transfer of goods, services, data, technology, and any other items across the borders of the United States," and that engaging in notice and comment procedures would result in undesirable international consequences. Aliens are only permitted to work with appropriate employment authorization. Ending the practice of providing employment authorization based on the filing of a renewal EAD application will also impact foreign remittances[142] sent abroad, to the extent such remittances include money earned through employment based on automatically extended employment authorization and/or EADs.

Embracing the potential to significantly enhance a country's Gross Domestic Product (GDP) through international remittances, the world has long recognized that governments of other countries benefit from their citizens' migration to other

---

[141] *See e.g., Nademi v. Immigr. & Naturalization Serv*., 679 F.2d 811, 814 (10th Cir. 1982 (finding that "[i]t was entirely rational for the Commissioner to alter immigration policy so as to bring it into conformity with the President's foreign policy toward Iran.").

[142] Remittances are financial or in-kind transfers made by migrants to their families and communities in their countries of origin. *See* Remittances, Worldbank.org, https://www.worldbank.org/en/topic/migration/brief/remittances-knomad (last visited June 5, 2025). The World Bank estimates remittances, from multiple countries, sent to aliens' home countries totaled about $656 billion (that number accounts for those remittances sent to low-and middle-income countries only but are the equivalent to the Gross Domestic Product (GDP) of Belgium. *See also* World Bank, Remittances Slowed in 2023, Expected to Grow Faster in 2024, Migration and Development Brief 40, June 2024. (hereinafter "World Bank, June 2024"), https://documents1.worldbank.org/curated/en/099714008132436612/pdf/IDU1a9cf73b51fcad1425a1a0dd1cc8f2f3331ce.pdf (last accessed June 6, 2025);*see also* Federal Reserve.gov, FED Notes, Global Remittances Cycle (Oscar Moterroso and Diego Vilan), February 27, 2025, https://www.federalreserve.gov/econres/notes/feds-notes/global-remittances-cycle-20250227.html (last visited June 5, 2025).

countries,[143] particularly migration to the United States. The United States has consistently been among the top migration destinations,[144] and top remittance-sending countries in the world.[145] For example, in 2021, the United States had a total outflow of $72.7 billion (accounting for 26% of all remittances sent in 2021 world-wide),[146] $79.15 billion in 2022,[147] and $85.8 billion in 2023.[148] Foreign-born nationals represent almost 20 percent of the U.S. civilian workforce.[149] Reductions in remittances, including those stemming from changes in U.S. immigration policies, could be viewed unfavorably by other countries and lead to international consequences that other countries find

---

[143] For example, in 2024, the top five recipient countries for world-wide remittances were India ($129 billion; 3.5% of the GDP), followed by Mexico ($68 billion; 3.7% of the GDP), China ($48 billion; 0.2% of the GDP), the Philippines ($40 billion; 8.7% of the GDP) and Pakistan ($33 billion; 9.4% of the GDP). *See* World Bank Blogs, Dilip Ratha, Sonia Plaza and Eung Ju Kim*, "*In 2024, Remittance flows to low- and middle-income countries are expected to reach $685 billion, larger than FDI and ODA combined" (Dec. 18, 2024), https://blogs.worldbank.org/en/peoplemove/in-2024--remittance-flows-to-low--and-middle-income-countries-ar (last accessed July 11, 205); *see also* World Bank Group/Data, Personal Remittances, received (% of GDP), https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS (last accessed July 11, 2025). In 2023, remittances from multiple countries accounted for over 20% of the GDP in countries like El Salvador, Honduras, Nepal and Lebanon. *See* Federal Reserve.gov, FED Notes, Global Remittances Cycle (Oscar Moterroso and Diego Vilan), February 27, 2025, https://www.federalreserve.gov/econres/notes/feds-notes/global-remittances-cycle-20250227.html (last visited June 5, 2025).

[144] According to 2024 World Bank data, the United States continues to be by far among the top migration destination countries, and in March 2024, the known foreign-born population had reached 51.6 million. *See* World Bank, June 2024, Table 1.9, Top Designation Countries, and page 13.

[145] *See, e.g.,* World Bank, June 2024, page 2 ("In 2023, remittance flows to LMICs were supported by strong labor markets in the advanced economies, particularly in the United States, which stands as the largest source country for remittances and the primary destination country for migrants."); *see* CRS (2023), Remittances: Background and Issues for the 118th Congress, Summary, https://www.congress.gov/crs-product/R43217 (last visited June 7, 2025) ("The United States is the destination for the most international migrants and, according to the International Monetary Fund and World Bank, the largest global source of remittances, sending $72.7 billion in 2021").

[146] S*ee* CRS (2023), Remittances: Background and Issues for the 118th Congress, Summary, https://www.congress.gov/crs-product/R43217 (last visited June 7, 2025).

[147] *See* World Migration Report (2022), Chapter 2, Migration and Migrants: A Global Overview International Remittances, page 18, https://worldmigrationreport.iom.int/what-we-do/world-migration-report-2024-chapter-2/international-remittances#:~:text=High%2Dincome%20countries%20are%20almost,data%20have%20not%20been%20updated (last accessed June 7, 2025).

[148] *See* Migration Data Portal Remittance outflows for United States of America at https://www.migrationdataportal.org/americas/key-figures?c=840&i=9181 (last visited June 12, 2025), *see also* Federal Reserve.gov, FED Notes, Global Remittances Cycle (Oscar Moterroso and Diego Vilan), February 27, 2025, https://www.federalreserve.gov/econres/notes/feds-notes/global-remittances-cycle-20250227.html (last visited June 5, 2025).

[149] *See* U.S. Department of Labor (May 20, 2025), Economic News Release, Labor Force Characteristics of Foreign-born Workers, Summary, https://www.bls.gov/news.release/forbrn.nr0.htm (last accessed June 6, 2025). In 2024, the foreign-born labor force accounted for 19.2 percent of the U.S. civilian labor force, up from 18.6 percent in 2023. *See id.* The data presented did not yet account fully for the influx of aliens that has taken place at the border over the course of 2023 and 2024, including those paroled into the United States to seek asylum and who were given EADs.

undesirable, as shown, for example, by recent concerns raised by Mexico.[150] Ending the practice of providing employment authorization based on the filing of a renewal EAD application may impact aliens' ability to provide foreign remittances, which may include money earned through employment based on automatically extended employment authorization and/or EADs, and could lead to a further reduction in remittances and have associated international consequences that other countries find undesirable.

Additionally, the United States,[151] as well as other countries have long been occupied with detecting and disrupting financing of terrorist and other transnational criminal activities, including financing of such activities through remittances.[152] Remittances may pose money laundering and terrorist financing (ML/TF) risks, depending on the context of the sender and/or recipient countries as well as the scale and the characteristics of criminal activities and terrorism in these transactions."[153] If these risks are not mitigated effectively, "a remittance corridor could be abused by criminals,

---

[150] *See, e.g.*, NewsMedia Newsroom (June 7, 2025), Remittances to Mexico Collapse as Trump Cracks Down on Illegal Immigration, https://yournews.com/2025/06/07/3490549/remittances-to-mexico-collapse-as-trump-cracks-down-on-illegal/ (last visited June 10, 2025) ("According to the Bank of Mexico, remittances in April totaled $4.76 billion—down $380 million from March's $5.14 billion. That 12.1% year-over-year decline from April 2024 marks the steepest drop in more than a decade, last matched in September 2012. Mexican President Claudia Sheinbaum addressed the downturn during a press conference, saying her administration would analyze the causes behind the continued drop and would urge U.S. lawmakers to reject a proposed 3.5% tax on remittance payments. A diplomatic delegation is set to travel to Washington to oppose the levy."); *see also* The Latin American Post (Jan. 29, 2025), Remittances to Mexico Could Plunge, https://latinamericanpost.com/economy-en/remittances-to-mexico-could-plunge-by-13-billion-under-trump/ (last visited June 16, 2025); *see* OFR America, How U.S. Immigration and Tax Policies Could Affect Remittance Outflows (Mar. 26, 2025), https://orfamerica.org/orf-america-comments/us-immigration-and-tax-policies-remittance-outflows (last visited July 11, 2025) ("One effect of the broader U.S. crackdown on both documented and undocumented migration is expected to be the decline of remittance outflows, with consequences for countries heavily reliant on these money flows.")

[151] *See* Congressional Research Service (CRS), Congress.gov, Remittances: Background and Issues for the 118th Congress (updated May 10, 2023), https://www.congress.gov/crs-product/R43217 (last accessed June 7, 2025).

[152] *See* CRS, Congress.gov, Remittances: Background and Issues for the 118th Congress, page 7 https://www.congress.gov/crs-product/R43217 (last accessed June 7, 2025) ("Global standards for remittances have emerged over the past decade, largely due to concerns about unregulated money transfer services and their use in planning the September 11, 2001, terrorist attacks. International efforts have been negotiated at the Financial Action Task Force, an inter-governmental body comprising 34 countries, including the United States, and two regional organizations, that develops and promotes policies and standards to combat money laundering and terrorist financing.").

[153] *See* World Bank, Financial Stability Board (Sept. 2021), A Draft Framework for Money Laundering/Terrorist Financing Risk Assessment of Remittance Corridor, https://www.fsb.org/uploads/P131221-1.pdf (last accessed June 7, 2025).

organized crime groups, terrorists, and terrorist organizations, potentially undermining national security, social order, and economic stability on both sides of the corridor."[154]

Aliens who seek to support nefarious activities detrimental to the United States and its allies, such as money laundering and terrorism, could currently continue to work and generate money in the United States for up to 540 days without vetting in the context of their renewal application. Ending the practice of providing automatic extensions of employment authorization and EADs based on the filing of a renewal EAD application to enhance vetting and determine that an alien remains eligible and, when applicable, continues to merit a favorable exercise of discretion, strengthens DHS' ability to detect and deter bad actors from financing nefarious activities through remittances with money earned while automatically employment authorized.

Vetting of foreign nationals, particularly those aliens coming from regions or nations with identified security risk, as well as economic impacts on other countries on account of U.S. immigration policies, involves more cautious and sensitive consideration of those matters which could easily impact relations with other governments.[155] Having to engage in notice and comment rulemaking on such matters, including DHS's position on which country's nationals are vetted and to what extent USCIS should issue automatic

---

[154] *See id; see also* United Nations, Guidance for a risk-based approach for remittance services providers, https://migrantmoney.uncdf.org/wp-content/uploads/2025/05/RBA-Guide_April2025.pdf (last accessed June 7, 2025) (recognizing that "[h]owever, Remittance services are potentially at risk of being misused for money laundering and financing terrorism activities. The speed with which a remittance transaction takes place means that these platforms are vulnerable to abuse by those wishing to use them for money laundering and terrorism financing").

[155] *See, e.g.*, *Rajah v. Mukasey,* 544 F.3d 427, 437 (2d Cir. 2008); *see also Am. Ass'n of Exporters & Importers v. United States, 751 F.2d1239, 1249(Fed. Cir. 1985) (quoting* H.Rep. No. 1980, 69th Cong., 2d Sess. 23 (1946); S.Rep. No. 752, 69th Cong., 1st Sess. 13 (1945) (Providing that the purpose of the exemption was to allow more cautious and sensitive consideration of those matters which "so affect relations with other Governments that, for example, public rule-making provisions would provoke definitely undesirable international consequences.").

extensions of EADs, may lead to the disclosure of sensitive intelligence related to the reasons why the administration is taking this step in the first place.[156]

Because this rule clearly implicates the foreign affairs policy of the United States and notice and comment procedure as well as a 30-day delayed effective date would definitely result in undesirable international consequences, DHS is issuing this rule without engaging in notice and public procedures and with an immediate effective date.

### B. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (Unleashing Prosperity Through Deregulation)

E.O. 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that "any new incremental costs associated with the new regulations shall, to the extent permitted by law be offset by the elimination of existing costs associated with at least 10 prior regulations."

This rule has been designated a "significant regulatory action" and economically significant as defined under section 3(f)(1) of EO 12866, because its annual effects on the economy may exceed $100 million in any year of the analysis. Accordingly, this rule has been reviewed by the Office of Management and Budget.

---

[156] *See, e.g., Rajah v. Mukasey,* 544 F.3d 427, 437 (2d Cir. 2008) (finding that having to go through notice and comment procedures would have at least three definitely undesirable international consequences that would impair relations with other countries, such as revealing intelligence when having to explain why a nation's citizen is a threat, having to resolve public debate over why some citizens of particular countries were potential dangers to U.S. security, and the fact that notice and comment rulemaking is slow and cumbersome, thus, diminishing the United States' ability to collect intelligence regarding, and enhancing defenses in anticipation of, a potential attack by foreign terrorists).

This interim final rule is not an Executive Order 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States. The rule's primary direct purpose is to implement or interpret the immigration laws of the United States (as described in INA sec. 101(a)(17), 8 U.S.C. sec. 1101(a)(17)) or any other function performed by the U.S. Federal Government with respect to aliens. See OMB Memorandum M-25-20, "Guidance Implementing Section 3 of Executive Order 14192, titled "Unleashing Prosperity Through Deregulation" (Mar. 26, 2025).

This IFR amends DHS regulations to end the practice of automatically extending the validity of employment authorization documents (Forms I-766 or EADs) for aliens who have timely filed an application to renew their EAD in certain employment authorization categories. The purpose of this change is to prioritize the proper vetting and screening of aliens before granting a new period of employment authorization and/or a new EAD. This IFR does not impact the validity of EADs that were automatically extended prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. In previous rules providing for the automatic extension of EADs based on the timely filing of a renewal EAD application, DHS attempted to stabilize aliens' earnings and avoid labor turnover costs of employers; however, the Department has shifted focus to prioritizing public safety and national security.

1. Affected Population

Due to factors contributing to a high degree of uncertainty, DHS cannot estimate the number of renewal EAD applicants who will be affected by this rule. When DHS adjudicates and approves EADs before their expiration date, this IFR results in no quantifiable impacts to aliens and their employers. DHS anticipates that due to external DHS actions for populations that may have otherwise applied for EADs, the number of

initial and renewal EAD applications will be lower than in recent years.[157] For more information on these actions, see Section IV. B. of this preamble. DHS assumes this reduced workload on USCIS could potentially eliminate the EAD backlog. Accordingly, under this scenario, this IFR would be less likely to result in lapses in employment authorization. If USCIS continues to have a backlog and is unable to adjudicate renewal EAD applications before their expiration, then this IFR, by ending the practice of providing automatic extensions based on the timely filing of an EAD renewal application, would result in temporary lapses in employment authorization and/or EADs.

DHS is not able to estimate the population that would be impacted by this IFR if recent external actions do not eliminate the backlog. However, DHS describes the impacted EAD renewal population that would have been subject to automatic extensions from prior recent backlogs. As detailed earlier in the preamble,[158] DHS has previously published two temporary final rules (2022, 2024) and a final rule (2024). DHS previously estimated a population that would have lapsed in the hypothetical absence of the 2024 final rule, and the 2024 and 2022 temporary final rules. In the 2024 final rule, DHS estimated a population range of 293,000 to 449,000 pending renewal EAD applicants in the categories eligible for automatic extension would have experienced a lapse in employment and DHS assumes this is a reasonable lower bound estimate.[159] This estimate is a lower bound because of this IFR's removal of the 180 day automatic extension in addition to the 540 day extension, within the TFRs and 2024 Final Rule. Ending the

---

[157] As an example of the potential reduction in the number of EAD applications from external DHS actions, DHS estimated that approximately 532,000 Cubans, Haitians, Nicaraguans, and Venezuelans that were part of the Parole Processes are no longer eligible for work authorization. Many of these aliens may have applied for an EAD, but will no longer be eligible, alleviating USCIS EAD adjudication resources. (90 FR 13611, March 25, 2025).

[158] *See* Section (III)(C) Background & Purpose: Automatic Extension of Employment Authorization and Documentation.

[159] *See* Table 8 Summary of Impacts, p.101246, Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants. In the 2024, Final Rule, DHS estimated between 306,000 and 468,000 renewals EAD applicants would experience a lapse. DHS then adjusted this population based on unemployment conditions in the economy. 89 FR 101208, December 13, 2024. https://www.federalregister.gov/d/2024-28584/p-748.

practice of providing automatic extensions of employment authorization and/or EADs, whether up to 540 days or up to 180 days, could result in more EADs lapsing. If USCIS is not able to process EAD renewal applications before the associated EAD expires, a larger population could experience a temporary lapse in their employment authorization and/or EADs.

DHS received an average of approximately 52,800 additional automatic extension-eligible renewal EAD applications per month in FY 2023. These additional renewal applications added to the backlog, given that USCIS completed approximately 49,100 automatic extension-eligible renewal EAD applications per month at that time.[160] It is difficult to accurately project future processing times. As stated in the 2024 final rule, processing times for EAD applications have fluctuated over the years. DHS cannot predict future fluctuations because they are dependent on variables that may change or are unanticipated, such as changes in application filing rates and processing efficiencies.[161] DHS lacks data to accurately assess evolving circumstances and unknown factors that contribute to backlogs. Accordingly, given the large amount of uncertainty around these factors, DHS is unable to produce a tenable population estimate for the future population that may be affected by this IFR.

2. Impacts of Ending the Practice of Providing EAD Automatic Extensions

The purpose of this rulemaking is to prioritize the proper vetting and screening of aliens before granting a new period of employment authorization and/or a new EAD by ending the practice of automatically extending the validity of employment authorization and/or EADs for aliens who have timely filed an application to renew their EAD in certain employment authorization categories. While prior automatic extensions reduced the risk of employers employing aliens with lapsed authorizations, this IFR will also

---

[160] *See* 89 FR 101208 (December 13, 2024) p. 101246 footnotes 167 thru 168.
[161] *See* Preamble, Section III.D. for reasons the processing times and backlogs have increased resulting in the 2024 TFR and 2024 Final rules.

reduce the risk that affected employers will continue to employ an alien who is no longer authorized to work. For example, while within their automatic extension period, an alien's application could have been adjudicated and denied. The obligation is on the alien employee to notify his or her employer that he or she is no longer work authorized, which puts employers at risk of unknowingly employing an unauthorized alien. Absent this IFR, employers assess the applicability of the automatic extension based in part on a non-secure document (such as Form I-797C, Notice of Action, which is printed on plain paper). With this IFR ending the practice of providing automatic extensions based on the timely filing of a renewal EAD application, DHS is reducing the potential for fraud and instances where employers unknowingly employ aliens beyond their work authorization and/or EAD validity.

This rule reverses some of the impacts described in the prior automatic extension rules. Employment lapses could result in cost and transfer impacts such as lost compensation to workers, transfers between workers losing their work authorizations to replacement workers, employers' lost productivity when they are not able to quickly replace employees with lapses, and turnover costs for employers to find replacement employees. In the following section, DHS discusses prior calculations of these impacts but is not able to quantify these impacts due to uncertainty.

Based on the 2024 final rule,[162] DHS estimated that the rate of compensation for individuals ranged from $20.26 to $62.21 per hour. To estimate the earnings impacts of employment lapses, DHS would then multiply this hourly compensation rate by the employed population with lapsing EADs, average work hours per week, and the duration of lapsed employment authorizations.[163]

[162] Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants, 89 FR 101253, 101254 (Dec. 13, 2024).
[163] See 89 FR 101255 for a description of these values and calculations.

The employment lapse impacts could result in either transfers of compensation to other workers or costs to employers, depending on employers' ability to replace workers with lapsed EADs. In cases where, in the absence of an automatic extension period, businesses would have been able to easily find reasonable labor substitutes for the lapsing EAD, this rule results in transfers of the earnings of affected EAD holders to others, who might fill in for or replace the renewal EAD applicants during their earnings lapse. In cases where, absent the automatic extension period, businesses may not easily find reasonable labor substitutes for lapsed EADs, employers may incur lost productivity and turnover costs or other disruptions. DHS assumes the value of lost productivity is at least as high as the compensation the employer would have paid the affected EAD holder. The employer turnover cost is generally reported as a share of annual wages.[164] DHS would calculate the turnover costs by multiplying the number of impacted lapse employees by the hourly wage rate, hours worked per year, and the share of annual wages. In the 2024 Final Rule, the unloaded hourly wage ranged from $13.97 to $42.90.[165]

Finally, if employers are unable to replace affected workers, there could be changes in transfers from taxes that would have been paid by affected aliens and their employers. It is challenging to quantify Federal and State income tax impacts of employment lapses because individual and household tax situations vary widely as do the various State income tax rates. To calculate the potential transfers impact on employment

[164] In the 2024 Automatic Extension Temporary Final Rule, DHS estimated the turnover costs as a percentage of annual wages, using a mean of 23 percent (Table 11). Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants, 89 FR 24669 (April 8, 2024).

[165] See 89 FR 101253 (April 8, 2024). This wage range does not include benefits and is not the equivalent of the hourly compensation.

taxes, DHS would estimate the decrease in Medicare and Social Security taxes, which have a combined tax rate of 7.65 percent (6.2 percent and 1.45 percent, respectively).[166]

Finally, DHS acknowledges that an impact of this IFR is an increased risk of loss of work authorization for aliens and employers. To the extent that aliens can file their renewals earlier and DHS is able to reduce the backlog, reductions in this uncertainty are expected.

DHS 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. DHS also is cognizant of the potential detrimental impact that gaps in employment authorization may have on an applicant's eligibility for future immigration benefits should the applicant engage in unauthorized employment during the gap,[167] and on their U.S. employers who must examine unexpired documents that evidence their employees' employment eligibility and attest that their employees are authorized to work in the United States.[168] DHS also acknowledges that backlogs and prolonged processing times for renewal EAD applications are not the fault of applicants, but nonetheless could have significant adverse consequences for applicants, their families, and their employers in the absence of this IFR. DHS will also continue to work to reduce frivolous, fraudulent or otherwise non-meritorious EAD filings to free up adjudicatory and other resources to better ensure national security and program integrity.

---

[166] The various employment taxes are discussed in more detail, *see* Internal Revenue Service, ''Understanding Employment Taxes,'' *https://www.irs.gov/businesses/small-businesses-self-employed/understanding-employment-taxes* (last updated May 7, 2025). *See* Internal Revenue Service ''Publication 15,'' ''(Circular E), Employer's Tax Guide'' (June 7, 2024), https://www.irs.gov/publications/p15 for specific information on employment tax rates. Relevant calculation: (6.2 percent Social Security +1.45 percent Medicare) ×2 employee and employer losses = 15.3 percent total estimated public tax impact.

[167] With certain exceptions, if a noncitizen continues to engage in or accepts unauthorized employment, the individual may be barred from adjusting status to that of a lawful permanent resident under INA 245. See INA secs. 245(c)(2) and (8), 8 U.S.C. 1255(c)(2) and (8).

[168] *See, e.g.,* INA sec. 274A(b)(1), 8 U.S.C. 1324a(b)(1), 8 CFR 274a.2(a)(3).

### C. Regulatory Flexibility Act[169]

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The RFA's regulatory flexibility analysis requirements apply only to those rules for which an agency is required to publish a general notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other law.[170] DHS did not issue a notice of proposed rulemaking for this action. Accordingly, DHS is not required to either certify that this IFR would not have a significant economic impact on a substantial number of small entities nor conduct a regulatory flexibility analysis.

Further, this interim final rule directly regulates individuals, and individuals are not defined as "small entities" by the Regulatory Flexibility Act. The rule indirectly impacts certain employers if, in the future, processing times exceed the expiration dates of EADs.

DHS is unsure what backlogs may continue in the future; however, DHS anticipates due to other DHS actions, described in Section IV. B. of this preamble, it is possible the backlog may end. If the backlogs are eliminated outside of this rule, employers would no longer be indirectly impacted by this final rule.

In the alternate scenario of a backlog in renewal EAD processing, some employers could experience indirect costs or transfer effects. The transfers would be in

---

[169] Although a regulatory flexibility analysis is not required under 5 U.S.C. 601 *et seq.* when a rule is not subject to notice-and-comment rulemaking, the agency has nevertheless prepared this statement for the benefit of the public.

[170] *See* 5 U.S.C. 604(a).

the form of lost compensation (wages and benefits). A portion of this lost compensation might be transferred from renewal EAD applicants to others who are currently in the U.S. labor force. A portion of the effects of this rule would also be borne by companies that would have continued to employ renewal EAD applicants had they been in the labor market longer; however, they were unable to find available replacement labor. These companies may incur an indirect cost, as they will be losing the productivity and potential profits the EAD applicant would have provided. Companies may also incur opportunity costs by having to choose the next best alternative to the immediate labor the applicant would have provided and by having to pay workers to work overtime hours. DHS does not know what this next best alternative may be for those companies. If companies can find reasonable labor substitutes for the positions the alien occupied, they will bear little or no costs. Conversely, if companies are unable to find reasonable labor substitutes for the position the applicant would have maintained then there would be no transfers and may experience turnover costs or other disruptions.

### D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and Tribal governments.[171] Title I of UMRA provides certain exceptions to its requirements and definitions. UMRA does not apply to rules from independent regulatory agencies or rules issued with no notice of proposed rulemaking. UMRA exempts legislative provisions and rules relating to individual constitutional rights, discrimination, emergency assistance, grant accounting and auditing procedures, national security, treaty obligations, and elements of Social Security legislation.

[171] The term "Federal mandate" means a Federal intergovernmental mandate or a Federal private sector mandate. *See* 2 U.S.C. 1502(1) and 658(5) and (6).

Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which USCIS published a proposed rule, which includes any Federal mandate that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. See 2 U.S.C. 1532(a). This rule is exempt from the written statement requirement because DHS did not publish a notice of proposed rulemaking for this rule. This final rule does not contain a Federal mandate as the term is defined under UMRA.[172] Therefore, the requirements of Title II of UMRA do not apply, thus DHS has not prepared a statement under UMRA.

### E. Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act)

The Congressional Review Act (CRA) was included as part of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) by subtitle E of SBREFA, Pub. L. 104-121, tit. II, 110 Stat. 847, 868, et seq. This IFR meets the criteria set forth in 5 U.S.C. 804(2) because it is likely to result in an annual effect on the economy of $100 million or more. *See* 5 U.S.C. 804(2)(A). DHS has complied with the CRA's reporting requirements and has sent this rule to Congress and to the Comptroller General as required by 5 U.S.C. 801(a)(1). As stated in this preamble, DHS has found that there is good cause to make this rule effective immediately upon publication. 5 U.S.C. 808(2).

### F. Executive Order 13132 (Federalism)

This IFR will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, Federalism, 64 FR 43255 (Aug. 4, 1999), it is

[172] See 2 U.S.C. 1502(1), 658(6).

determined that this IFR does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

**G. Executive Order 12988 (Civil Justice Reform)**

This IFR is drafted and reviewed in accordance with E.O. 12988, Civil Justice Reform. This IFR was written to provide a clear legal standard for affected conduct and was reviewed carefully to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal Court system. DHS has determined that this rule meets the applicable standards provided in section 3 of E.O. 12988.

**H. Family Assessment**

DHS has reviewed this rule in line with the requirements of section 654 of the Treasury General Appropriations Act, 1999.[173] DHS has systematically reviewed the criteria specified in section 654(c)(1), by evaluating whether this regulatory action: (1) impacts the stability or safety of the family, particularly in terms of marital commitment; (2) impacts the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions; (4) affects disposable income or poverty of families and children; (5) only financially impacts families, if at all, to the extent such impacts are justified; (6) may be carried out by State or local government or by the family; or (7) establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. If the agency determines a regulation may negatively affect family well-being, then the agency must provide an adequate rationale for its implementation.

With this IFR, DHS is discontinuing the practice of providing an automatic extension of the EAD or employment authorization upon the filing of a renewal EAD application because it grants a benefit without an eligibility determination, without completing vetting and screening checks and without resolving the potential hits and

[173] *See* Public Law 105-277, 112 Stat. 2681 (1998).

derogatory information. DHS has determined that the implementation of this regulation may potentially negatively affect family well-being as outlined in section 654 of the Treasury General Appropriations Act, 1999. Specifically, this rule has the potential to affect disposable income of families and children and therefore, also impacts the family financially. However, DHS believes that it has an adequate rationale for its implementation. DHS believes that the consequences of the rule – the possibility that an alien is not authorized to work during the pendency of the alien's renewal EAD application and thus, that families have less disposable income – are justified in light of the national security and public safety risk that automatically issuing immigration benefits, such as an automatic extension of an EAD, poses to the public. Additionally, DHS is not removing the alien's ability to obtain a renewal of their EAD and/or employment authorization; DHS is also not preventing eligible aliens from obtaining EADs for purposes such as proof of identity. The issuance of a renewal EAD depends in large part on the applicant's timely application for a renewal EAD. The proper planning by the alien, and monitoring of EAD processing times, allows the alien to timely file a renewal EAD application as soon as eligible which may mitigate the risk that the alien could experience a lapse in their EAD validity and have to temporarily stop working. For these reasons, DHS believes that the benefit this rule provides by improving the security posture as it relates to the issuance automatic extensions outweighs the impact, if any, on families and their children. Better protecting public safety and national security before providing immigration benefits, such as automatic extensions of employment authorization based on the filing of a renewal EAD application, is paramount.

## I. Executive Order 13175

This IFR will not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the

Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

### J. National Environmental Policy Act

DHS and its components analyze final actions to determine whether the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* applies and, if so, what degree of analysis is required. DHS Directive 023-01, Rev. 01 "Implementing the National Environmental Policy Act" (Directive 023-01) and Instruction Manual 023-01-001-01 Revision 01, Implementation of the National Environmental Policy Act" (Instruction Manual)[174] established the policies and procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA.

NEPA allows Federal agencies to establish, in their NEPA implementing procedures, categories of actions ("categorical exclusions") that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment or environmental impact statement.[175] The Instruction Manual, Appendix A lists the DHS Categorical Exclusions.[176]

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.[177]

---

[174] The Instruction Manual contains DHS' procedures for implementing NEPA and was issued Nov. 6, 2014. *See* DHS, Office of the Chief Readiness Support Officer, National Environmental Policy Act Compliance, https://www.dhs.gov/ocrso/eed/epb/nepa (last updated Apr. 14, 2025)
[175] *See* 42 U.S.C. 4336(a)(2), 4336e(1).
[176] *See* Instruction Manual, Appendix A, Table 1.
[177] Instruction Manual 023-01 at V.B(2)(a)–(c).

This IFR amends DHS regulations discontinuing the practice of providing an automatic extension of the EAD or employment authorization upon the filing of a renewal EAD application. DHS is ending the practice of providing automatic extension of EADs to prioritize the completion of vetting and eligibility screening of aliens before granting a new period of employment authorization and/or a new EAD.

This final rule is strictly administrative and procedural. DHS has reviewed this IFR and finds that no significant impact on the environment, or any change in environmental effect will result from the amendments being promulgated in this final rule.

Accordingly, DHS finds that the promulgation of this final rule's amendments to current regulations clearly fits within categorical exclusion A3 established in DHS's NEPA implementing procedures as an administrative change with no change in environmental effect, is not part of a larger Federal action, and does not present extraordinary circumstances that create the potential for a significant environmental effect.

**K. Paperwork Reduction Act**

This rule does not propose new or revisions to existing "collection[s] of information" as that term is defined under the paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 13200. As this IFR will only end the practice of providing automatic extension of EAD validity and/or employment authorization, USCIS does not anticipate a need to update the EAD application or to collect additional information beyond what is already collected on the EAD application.

**List of Subjects in 8 CFR Part 274a**

Administrative practice and procedure, Aliens, Cultural exchange program, Employment, Penalties, Reporting and recordkeeping requirements, Students.

**Regulatory Amendments**

Accordingly, for the reasons set forth in the preamble, the Secretary of Homeland Security amends 8 CFR part 274a as follows:

**PART 274a - CONTROLS OF EMPLOYMENT OF ALIENS**

1. The authority citation for part 274a continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1105a, 1324a; 48 U.S.C. 1806; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 114-74, 129 Stat. 599; Title VII of Pub. L. 110-229, 122 Stat. 754; Pub. L. 115-218, 132 Stat. 1547; 8 CFR part 2.

2. Amend § 274a.13 by:

a. Revising the heading of paragraph (d).

b. Adding paragraph (e).

The revision and addition read as follows:

**§ 274a.13 Application for employment authorization.**

* * * * *

(d) *Renewal application filed before* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]—* * *

(e) *Renewal application filed on or after* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Except as otherwise provided by law, paragraph (d) of this section, or in an applicable Federal Register notice regarding procedures for renewing TPS-related employment documentation, the validity period of an expired or expiring Employment Authorization Document and, for aliens who are not employment authorized incident to status, also the attendant employment authorization, will not be automatically extended by a request for renewal. An Employment Authorization Document and, if applicable, the attendant employment authorization, will expire as follows:

(1) For aliens who are employment authorized incident to status pursuant to § 274a.12(a), unless otherwise provided by law, the Employment Authorization Document

will expire on the day after the end validity date on the Employment Authorization Document. The employment authorization will expire or terminate upon the expiration or termination of the alien's status or circumstance.

(2) For aliens who are employment authorized pursuant to § 274a.12(c), the Employment Authorization Document will expire, and the attendant employment authorization will terminate, the day after the end validity date on the Employment Authorization Document, pursuant to § 274a.14, or, for TPS applicants, pursuant to section 244 of the Act and 8 CFR part 244.

---

**Kristi Noem,**
*Secretary,*
*U.S. Department of Homeland Security.*

[FR Doc. 2025-19702 Filed: 10/29/2025 8:45 am; Publication Date: 10/30/2025]