



News & Types: Immigration Update

USCIS to Eliminate Automatic Extension of Employment Authorization While Certain Work Permit Applications Are Pending

10/29/2025

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Practices: Immigration

Approximately 291 days after finalizing a rule to increase the automatic extension from 180-days to 540-days for certain employment authorization documents (EADs) during the renewal process, U.S. Citizenship and Immigration Services (USCIS) announced that it is now cancelling the rule. Additionally, it announced that it will not be returning to the previous 180-day automatic extension. Instead, USCIS announced that it is completely eliminating the automatic extension of employment authorization in certain EAD categories. This rule is effective immediately on Thursday, October 30th. The USCIS will not be allowing an implementation period for affected individuals and their employers.

WHICH	EAD	CATEGORIES	ARE	AFFECTED?
• A17: Spouses of Treaty Trader (E-1), Treaty Investor (E-2) or Australian Specialty Worker (E-3) • A18: Spouses of Intracompany Transferees (L-2) • C26: Spouses of Specialty Occupation Workers (H-4) • C09: Applicants for adjustment of status • A07: Parents or dependent children of aliens granted permanent residence under INA §101(a)(27)(I) or parents, spouse or children of certain NATO employees (N-8 or N-9) • A12 or C19: Applicants for Temporary Protected Status or persons granted TPS who hold an EAD in the A12 or C19 categories • C20 or C22 or C24: Applicants for legalization • A03: Refugees • A05: Asylees • A10: Persons granted withholding of deportation or removal • C08: Applicants for asylum and withholding of deportation or removal				

- **C10:** Applicants for suspension of deportation, cancellation of removal or special rule cancellation of removal
- **A08:** Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau
- **C16:** Applicants for creation of record of lawful admission for permanent residence
- **C31:** Noncitizens authorized to work under the Violence Against Women Act (VAWA)

WHICH EAD RENEWALS OR EMPLOYMENT AUTHORIZATION CLASSIFICATIONS ARE NOT AFFECTED?

- EAD renewals filed before October 30, 2025 where the 540-day automatic extension applies.
- Spouses of Treaty Traders having a Form I-94 in the E1S classification – work authorization is incident to this immigration status.
- Spouses of Treaty Investors having a Form I-94 in the E2S classification – work authorization is incident to this immigration status.
- Spouses of Australian Workers having a Form I-94 in the E3S classification – work authorization is incident to this immigration status.
- Spouses of Intracompany Transferees having a Form I-94 in the L2S classification – work authorization is incident to this immigration status.

WHY IS USCIS ELIMINATING THE AUTOMATIC EXTENSION?

USCIS states that it needs to “prioritize the proper vetting and screening of aliens before granting a new period of employment authorization and/or a new EAD” and follow the President’s Executive Orders (14159 and 14161) “Protecting the American People Against Invasion” and “Protecting the United States From Foreign Terrorists and Other National Security and Public Safety Threats”. While not a part of the interim final rule, it is anticipated that individuals applying for an EAD may be required to complete biometrics processing before their application will be approved.

IF MY EAD RENEWAL IS PENDING, DOES MY WORK AUTHORIZATION END?

No. Individuals who filed an EAD application (Form I-765) before October 30, 2025 to renew their EAD and whose application is pending continue to have interim work authorization under the 540-day automatic extension. This new interim final rule does not cancel existing work authorization or shorten the validity of EADs that were automatically extended prior to the new interim final rule.

HOW DOES THIS RULE IMPACT EMPLOYERS?

While the elimination of the automatic extension work authorization will simplify the Form I-9 and E-Verify processing for employers, it may also negatively impact their workforce as employers may lose employees whose new EAD is not processed before it expires. An employer will no longer be able to rely on a receipt

notice (Form I-797C) for Form I-765 as documentation of interim work authorization when completing the Employment Eligibility Verification Authorization (Form I-9) in the hiring process. An employer may not legally employ someone who does not have work authorization. USCIS has indicated that it will be updating I-9 Central and the M-274 Handbook for Employers to reflect the changes being made by the interim final rule.

HOW DOES THIS RULE IMPACT NONCITIZEN WORKERS?

A noncitizen who works in the United States without USCIS-approved authorization may be deported, may become ineligible for permanent resident status/Green Card processing while in the United States, and may be subject to civil and/or criminal penalties. Additionally, this new rule may negatively impact the ability for such workers to be able to drive in the United States as many states limit driving privileges to only those noncitizens having work authorization.

USCIS is under no regulatory timeline to process Forms I-765. In its Application Processing Data for September 2025, USCIS reported receiving 225,595 Forms I-765 during September 2025 and that it has 1,698,599 Forms I-765 pending, with more than 53% of those applications pending for more than 6 months.

If you have questions about the implementation of the rule, please contact a Masuda Funai attorney.

Masuda Funai is a full-service law firm with offices in [Chicago](#), [Detroit](#), [Los Angeles](#), and [Schaumburg](#).