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RE: Removal of the Automatic Extension of Employment Authorization Documents, USCIS Docket No. USCIS-2025-0271

The Catholic Legal Immigration Network, Inc. (CLINIC), the United States Conference of Catholic Bishops (USCCB), and Catholic Charities USA (CCUSA) submit this joint comment regarding U.S. Citizenship and Immigration Services' (USCIS) Interim Final Rule (IFR) entitled "Removal of the Automatic Extension of Employment Authorization Documents," published October 30, 2025.[1]

Since 1988, CLINIC has supported nonprofit immigration legal services programs through training, technical assistance, publications, and advocacy. CLINIC's network, originally comprised of 17 programs, has now increased to over 400 diocesan and community-based programs in 48 states and the District of Columbia. CLINIC is the largest nationwide network of nonprofit immigration programs. Our Affiliates assist hundreds of thousands of low-income immigrants annually, including asylum seekers, temporary protected status (TPS) holders, Violence Against Women Act (VAWA) self-petitioners, parolees, survivors of trafficking and crime, and other vulnerable groups—many of whom rely on work authorization not merely as a convenience but as an essential lifeline. For these communities, work authorization is the foundation for housing stability, family unity, access to healthcare, food security, and the ability to participate fully in their communities.

The USCCB is a nonprofit corporation whose members are the active Catholic bishops of the United States, representing nearly 200 autonomous dioceses in all 50 states and the U.S. Virgin Islands. For almost sixty years, the USCCB's Department of Migration and Refugee Services has advanced the Church's concern for the life and dignity of immigrants, refugees, victims of trafficking, and others on the move through direct-service programs, advocacy, and outreach. This work is guided by the USCCB's Committee on Migration and supported by the USCCB's Subcommittee on Pastoral Care of Migrants, Refugees and Travelers, which promotes pastoral outreach to immigrants throughout the country.

[1] *Removal of the Automatic Extension of Employment Authorization Documents*, 90 FR 48799 (Oct. 30, 2025).

CCUSA is the voluntary, national membership organization for Catholic Charities agencies throughout the United States. Each agency is a separate legal entity under the auspices of its bishop. CCUSA's 168 member agencies operate in over 4,000 service sites across 50 states, Washington D.C., and five U.S. territories. Rooted in the Gospel (Matthew 25), Catholic Charities has, for over a century, provided assistance to all people, regardless of background or religious affiliation, in their time of need. The agencies help provide food, utilities assistance, trauma-informed case management, housing assistance, and other support to people who are experiencing difficulty meeting their basic needs. Last year, Catholic Charities served 16 million people nationwide. Additionally, in collaboration with government agencies at all levels, Catholic Charities provides assistance to immigrants and refugees in their integration process. Catholic social teaching emphasizes welcoming and accompanying the newcomer and caring for persons in poverty as an expression of Christ's love for all. The Church teaches that these obligations flow from the inalienable, God-given dignity of each human person and that the common good is promoted when society upholds this dignity.

Given our organizations' ministries to immigrants and refugees around the country, we are deeply concerned that the changes in the IFR will disproportionately harm immigrants and their families. The IFR will guarantee widespread employment-authorization gaps; destabilize fragile households; generate severe backlogs and administrative burdens for affiliates; impede the functioning of state agencies, such as Departments of Motor Vehicles; and impose substantial costs on U.S. employers and local economies. Most importantly, the IFR will produce these harms without any demonstrated countervailing benefit. Additionally, the IFR is arbitrary and capricious. USCIS does not explain its departure from its prior policy positions; it ignores or misstates the processes the IFR affects; and the IFR does not adequately address the reliance interests of stakeholders. Furthermore, USCIS fails to establish that good cause exists for the issuance of a post-implementation comment period. Lastly, the IFR, as proposed, conflicts with fundamental humanitarian and economic principles embodied in U.S. immigration law.

For these reasons, further explained below, our organizations respectfully request USCIS to rescind the IFR in its entirety.

I. The IFR's Regulatory Changes and Their Consequences for Our Organizations and CLINIC Affiliates

The IFR prohibits the automatic extension of both employment authorization and Employment Authorization Document (EAD) validity for any renewal application filed after publication. It directs USCIS to remove all auto-extension language from receipt notices, instruct employers that expired EADs accompanied by proof of timely-filed renewal cannot support continued employment, and modify SAVE responses so that state agencies, including Departments of Motor Vehicles, may not rely on receipt notices for licensing decisions. Although the rule grandfathers pre-publication renewals under the existing extension framework, the IFR makes clear that no future renewal applicant will benefit from automatic continuity of employment.

a) The IFR Eliminates the Only Safeguard Against Work-Authorization Gaps

The IFR removes the only mechanism that has prevented widespread work-authorization lapses despite USCIS' longstanding adjudication delays. Even with recent staffing improvements, USCIS' own published processing time data show that many Form I-765 categories routinely take several months to adjudicate.[2] Although the posted averages may appear to fall within typical EAD validity periods, they represent only the time required to complete 80 percent of adjudicated cases and mask substantial backlogs. USCIS's

[2] See *U.S. Citizenship & Immigration Services, Case Processing Times – Form I-765, Application for Employment Authorization,* https://egov.uscis.gov/processing-times/i765.

processing-time and pending case datasets show that tens of thousands of EAD renewal applications remain pending beyond six months nationwide.[3]

Even with the 180-day and later the 540-day automatic extensions, clients of CLINIC Affiliates were at risk of suspension or termination because renewal adjudications had not kept pace. As such, these clients often faced loss of wages, loss of health insurance tied to employment, and inability to meet basic expenses — harms narrowly averted only because the automatic extension allowed them to keep working while USCIS completed its review. These cases underscore that even temporary extensions were barely sufficient to stabilize families living on the economic margin.

Eliminating automatic extensions altogether guarantees that these harms will now occur at scale. Under current processing times, a substantial portion of renewal applicants will lose their jobs solely because USCIS has not adjudicated their cases before the EAD expiration date, despite timely filing and continued eligibility. By removing the only buffer against its own delays, the agency converts an administrative backlog into a nationwide work-authorization crisis that will destabilize workers, families, and employers across the country.

b) The IFR Will Increase Demand for Charitable Services, Including Legal Assistance and Social Services

The IFR will also strain nonprofit legal services programs as clients lose work authorization solely due to USCIS adjudication backlogs. The automatic extension rule has been the only mechanism ensuring continuity of employment while renewals are pending. Without it, ordinary processing delays will cause widespread work interruptions and urgent requests for legal intervention that nonprofit providers lack capacity to manage.

Even under the 180-day and later 540-day extension frameworks, clients of CLINIC Affiliates routinely required assistance navigating the consequences of delayed adjudications. These clients often needed help submitting expedite requests, resolving SAVE verification errors, addressing employer reverification confusion, or correcting inconsistent application of EAD-extension rules at DMVs (addressed in Section I(c)). As CLINIC previously documented, these demands already placed significant strain on nonprofit programs and diverted attention from merits work and humanitarian case preparation.[4]

Eliminating automatic extensions will magnify these pressures. Clients experiencing job loss, the loss of employer-sponsored health insurance, or sudden financial instability will turn to nonprofit legal services programs for urgent, individualized intervention. These crisis-driven requests require time-intensive support and cannot be incorporated into existing caseloads without displacing core legal services. By making work-authorization lapses inevitable under current processing conditions, the IFR shifts the operational consequences of systemic federal delays onto nonprofit legal providers and the vulnerable populations they serve.

In addition, this IFR is likely to increase reliance on social services among various populations, including both U.S. citizens and immigrants, who may experience financial difficulties due to employment gaps resulting from this rule. A significant number of affected immigrants serve as key wage earners in their

[3] See *USCIS, Counts of Pending I-765 Petitions by Days Pending,* https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data.

[4] See CLINIC, *Public Comment in Response to the TFR on Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain EAD Renewal Applicants* (2024), *available at* https://www.cliniclegal.org/resources/asylum-and-refugee-law/employment-authorization-documents/public-comment-response-tfr.

mixed-status households, with some being the sole providers. If these primary earners become unemployed, their U.S.-citizen family members, who previously may have been self-sufficient, are likely to seek public assistance programs to cover financial shortfalls. Moreover, families that previously managed to afford their rent, utility bills, childcare expenses, or maintained access to employer-sponsored health insurance may now need to seek the support of charitable organizations such as Catholic Charities agencies to meet these fundamental needs, which would burden an already strained nonprofit support network. The implications of this policy underscore the need to carefully consider its effects on particularly vulnerable populations and the wider community.

c) The IFR Will Significantly Disrupt Access to Driver's Licenses and State Identification

Third, the IFR will materially disrupt access to driver's licenses and state identification. Clients of CLINIC Affiliates rely on work authorization to qualify for these documents.[5] Under the IFR, individuals are likely to lose the ability to renew their licenses and state identifications while their work authorization renewal is pending with USCIS, leaving many without valid identification or authorization to drive.

Previously, the 540-day automatic extension allowed most individuals to renew their licenses or identifications using their receipt notice, ensuring uninterrupted access to lawful driving and identification. This change effectively penalizes individuals for USCIS's existing case backlogs, forcing them into lapses in driving authorization and identification through no fault of their own. Even with careful planning and timely renewal requests, there is no assurance that the applicant will receive their renewed work authorization before the current one expires, a situation beyond their control. The resulting gaps will impose serious socioeconomic burdens, hindering daily activities such as transporting children to school, attending medical appointments, commuting to work, and performing essential household tasks.

Moreover, since only about nineteen states, along with the District of Columbia and Puerto Rico,[6] issue licenses or identification cards to individuals regardless of immigration status, clients of CLINIC's Affiliates who reside in states that do not offer such documents without lawful status rely on their EADs to maintain these forms of identification. Eliminating the automatic extension would leave many clients of CLINIC Affiliates without any valid state identification or authorization to drive. This will disproportionately affect employment, education, and family stability. CLINIC is deeply concerned about the harmful impact that eliminating automatic extensions may have on our clients of our Affiliates, many of whom belong to vulnerable communities and depend on a driver's license to lawfully commute without the risk of traffic violations and the resulting financial strain.

Although USCIS acknowledges the potential disruption individuals may face when their EADs temporarily lapse, it maintains that the government's interests and policy considerations outweigh the hardships individuals may experience because of this IFR. However, the harms caused by this policy will not be suffered only by the individuals whose EADs lapse. Granting automatic extensions for pending work permit renewals allows individuals to continue supporting their families and remain self-sufficient, reducing the likelihood of financial burdens on the federal government and their local communities and enabling these individuals to continue making positive contributions to our economy.

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[5] *See* U.S. Dep't of Homeland Sec., *REAL ID Frequently Asked Questions*, https://www.USCIS.gov/real-id/real-id-frequently-asked-questions; Nat'l Immigr. Law Ctr., *Overview of Driver's License Requirements for Immigrants* (updated 2023), https://www.nilc.org/issues/drivers-licenses/overview-drivers-license-requirements/.

[6] National Immigration Law Center, *State Laws Providing Access to Driver's Licenses or Cards, Regardless of Immigration Status* (Table) (2024), https://www.nilc.org/resources/state-laws-providing-dl-access/.

d) The IFR Will Impose Significant Costs on Employers and Local Economies

The IFR will inflict substantial harm on American employers and local economies. Immigrants lawfully permitted to reside and work in the United States are essential to the U.S. economy. Disruptions in the availability of authorized labor create significant harm to U.S. businesses. Labor shortages in the agriculture and healthcare sectors are already creating significant stress and removing the automatic extension will further compound this problem. As employer costs rise due to labor instability, it is the U.S. consumer who will ultimately pay the higher price for goods and services or face difficulties procuring certain products and services at all.

In addition, working immigrants contribute significantly to consumer spending that drives the U.S. economy. In fact, a 2024 report published by the U.S. Department of Health and Human Services (HHS) found that over a 15-year period, asylees and refugees contributed a net positive fiscal impact of $123.8 billion dollars to the economy, meaning that this population of individuals contributed more revenue than they cost in expenditures to the U.S. government. In total, the net fiscal benefit to the federal government was estimated at $31.5 billion, and the net fiscal benefit to state and local governments was estimated at $92.3 billion.[7] If immigrant workers cannot work because their EADs lapse through no fault of their own, not only do the individual workers and their families suffer but so do all the local businesses that depend on both their contribution to the provision of goods and services and their contributions as consumers. Again, as our economy remains fragile, removing the automatic extension further harms local businesses, economies, and the communities they support.

In addition to the negative economic impact the IFR will have, there is also the impact on the practice of religion. Each year, nearly 5,000 religious worker visas are issued to support all faiths and religions in the U.S. Those religious workers with work authorization will have their ministry and community-based social work severely limited if the automatic extension is eliminated. This will have a severe impact not only on the religious organizations and religious workers but also on the communities they serve. Programs created to support communities in need may be forced to cease operations if a religious worker is unable to continue their work due to not having the proper authorization to work while in the U.S. Many dioceses rely on religious workers to minister and provide religious services locally in parishes. These programs and ministries will likely be limited if a religious organization is unable to find personnel to facilitate the program, impacting the ability of the faithful to receive spiritual care.

e) The IFR Increases Immigrants' Vulnerability to Labor Exploitation and Undermines the Dignity of Work and the Right to Provide for a Dignified Life

The IFR creates an environment that increases the vulnerability of lawfully present immigrants to labor trafficking and other forms of exploitation. Individuals facing employment gaps due to this IFR may find themselves in precarious situations where unscrupulous or predatory persons might exploit their desperate need to support themselves and their families. As these individuals experience lengthy processing times for EAD renewals, they may be compelled to accept exploitative working conditions because they are ineligible for public assistance, and charitable organizations may not be able to meet all their basic needs, thereby increasing their risk of exposure to abuse. This public safety risk is entirely unnecessary and avoidable, underscoring the need for this IFR to be rescinded.

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[7] Robin Ghertner, Suzanne Macartney & Meredith Dost, *The Fiscal Impact of Refugees and Asylees Over 15 Years: Over $123 Billion In Net Benefit From 2005 to 2019*, U.S. DEP'T OF HEALTH AND HUMAN SERV. (Feb. 2024), https://aspe.hhs.gov/sites/default/files/documents/ea6442054785081eb121fa5137cf837d/aspe-brief-refugee-fiscal-impact-study.pdf.

Furthermore, the IFR disregards the sanctity of work as well as a noncitizen's right to work and provide for themselves and for their family. Catholic social teaching explains that labor is more than just a way to make a living; it is a form of continuing participation in God's creation. Labor plays a role in helping individuals live out their human dignity. Our Catholic faith calls us to pray, work, and advocate for protections that allow all laborers to thrive, not just survive.

Dignified work reflects that our humanity gives us an active role to play in cultivating the world around us. Through work, we exercise dominion over how we provide the material needs for ourselves and our families. Legal work authorization allows noncitizens the opportunity to seek dignified, lawful, and gainful employment. The proposed IFR would disrupt noncitizens' ability to maintain such forms of employment. The employment authorization gaps that would ensue would undoubtedly force many to turn to unregulated forms of work, making them more susceptible to situations of trafficking, abuse, and exploitation.

II. Given the Far-Reaching Effects of the IFR, Our Organizations Urge USCIS to Rescind the IFR's Implementation and Provide a Full 90-Day Comment Period

The IFR's effects are sweeping, difficult to forecast, and potentially irreversible. Therefore, pre-promulgation notice and comment are not optional; they are statutory prerequisites for a legislative rule to be valid.[8] USCIS' 30-day post-implementation window is inadequate under the Administrative Procedure Act (APA), and, absent a substantiated good-cause finding, unlawful.[9] *Post hoc* commenting does not cure the defect: post-comment implementation denies stakeholders the opportunity to shape the rule before it binds them. This also undermines USCIS's obligation to weigh reliance interests and less burdensome alternatives. USCIS should rescind the IFR and provide a meaningful pre-implementation comment period so that USCIS can assess the rule's nationwide impacts based on fully developed comments from affected parties. Failure to do so renders this action arbitrary and capricious and exposes it to vacatur and remand.[10]

Our organizations do not believe that good cause has been met in this instance in order to issue an IFR. Proper invocation of the good cause exception to the APA's notice-and-comment requirement and 30-day waiting period before a proposed rule takes effect is sensitive to the totality of the factors at play.[11] The good cause exception is a high bar because it is essentially an emergency procedure.[12] The government must make a sufficient showing that delay would do real harm to life, property, or public safety or that some exigency interferes with its ability to carry out its mission. USCIS has not done so and cannot do so.

a) USCIS Has Failed to Establish Good Cause Under the Emergency and Public Interest Exceptions to the Notice and Comment Requirements of the APA

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[8] *Kisor v. Wilkie*, 588 U.S. 558, 584 (2019) (plurality opinion) ("A legislative rule,[] to be valid, must go through notice and comment") (cleaned up); *id*., at 607 (GORSUCH, J., concurring in judgment) (same); *Perez v. Mortgage Bankers Assn*., 575 U.S. 92, 96 (2015) (same).

[9] *See* 5 U.S.C. § 553(b)–(d).

[10] E. Bay Sanctuary Covenant v. Biden, 993 F.3d 640, 681 (9th Cir. 2021) ("[w]hen a reviewing court determines that agency regulations are unlawful, the ordinary result is that the rules are vacated[.]") (*E. Bay Sanctuary); Capital Area Immigrants' Rights Coal. v. Trump*, 471 F. Supp. 3d 25, 57–58 (D.D.C. 2020) ("The APA commands that courts hold unlawful and set aside agency actions taken without observance of procedure required by law. And the D.C. Circuit has held that failure to provide the required notice and to invite public comment is a fundamental flaw that normally requires vacatur of the rule.") (cleaned up) (*CAIR Coal.*).

[11] *E. Bay Sanctuary*, 993 F.3d at 675*; Chamber of Commerce of United State v. United States Dep't of Homeland Sec.*, 504 F. Supp. 3d 1077, 1087 (N.D. Cal. 2020) (*Chamber of Commerce*).

[12] *E. Bay Sanctuary*, 993 F.3d at 675; *Chamber of Commerce*, 504 F. Supp. 3d at 1080.

The good cause exception is appropriately invoked when the timing and disclosure requirements of the usual procedures would defeat the purpose of the proposal—if, for example, announcement of a proposed rule would enable the sort of financial manipulation the rule sought to prevent.[13] The good cause exception applies only in unusual cases where notice and comment becomes sufficiently impracticable, such as when air travel security agencies would be unable to address threats posing "a possible imminent hazard to aircraft, persons, and property within the United States, or when a rule was of life-saving importance" to mine workers in the event of a mine explosion.[14]

Here, USCIS argues that good cause has been shown because "it is self-evident that aliens would rush to file renewal EAD applications to obtain automatic extensions before the rule takes effect."[15] This argument harkens back to USCIS's similar position in *CAIR Coal.* There, USCIS argued that good cause was shown because having notice and comment would mean asylum seekers would surge to the border.[16] The Court rejected this argument. As in *CAIR Coal*, this argument does not fare well. Employment authorization renewal applications are time-restricted. A noncitizen can only apply for a renewal within 6 months of their expiration date. USCIS knows this. It even touted it in the IFR.[17] Therefore, there likely would not be a rush of renewals, since these renewals would be time-barred. As a result, this fact cannot give rise to the good cause exception to the APA notice and comment requirement.

USCIS also argues that good cause has been shown based on a single instance of an attack by a noncitizen to protesters in Colorado.[18] This argument is also similar to USCIS's reliance on a single story to claim the good cause exception in *CAIR Coal*, which the Court similarly rejected. In *CAIR Coal* there was no connection between the claimed article and the surge of asylum seekers,[19] just as there is no reasonable connection between the Boulder attack and the fact that the perpetrator had received an automatically extended EAD. USCIS does not even attempt to establish or rationalize that "increased vetting" would have stopped this attack. If the Boulder attacker did not have previous derogatory information, "increased vetting" would not have been sufficient to stop this attack. As terrible as the crime may be, the conclusion USCIS suggests we draw from this single example does not follow. One perpetrator should not taint all other applicants with a veneer of suspicion. For one Boulder perpetrator, there are untold thousands that have done nothing to warrant this treatment, and USCIS does not provide any evidence in support of its new position. Therefore, this single story cannot provide USCIS with good cause to avoid notice and comment.

This leaves USCIS with the argument that good cause has been shown because this change forms part of President Trump's policy goals, as exhibited in Executive Orders (EO) 14159 and 14161. However,

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[13] *CAIR Coal.*, 471 F. Supp. 3d at 46.
[14] *CAIR Coal.*, 471 F. Supp. 3d at 45-46 (*quoting Mack Trucks, Inc. v. E.P.A.*, 682 F.3d 87, 93 (D.C. Cir. 2012)); *Make the Rd. New York v. Pompeo*, 475 F. Supp. 3d 232, 262 (S.D.N.Y. 2020) ("As to the public interest prong, because notice and comment is of course regarded as beneficial to the public interest, the use of notice and comment must actually harm the public interest for the exception to apply.")
[15] 90 FR 48813.
[16] *CAIR Coal.*, 471 F. Supp. 3d at 46 ; *E. Bay Sanctuary*, 993 F.3d at 676 ("A citation to this single article is not sufficient to demonstrate that the delay caused by notice-and-comment or the grace period might do harm to life, property, or public safety.")
[17] 90 FR 48802 FN17.
[18] 90 FR 48813.
[19] *CAIR Coal.*, 471 F. Supp. 3d at 47 ("the article does little if anything to support Defendants' prediction that undertaking notice-and-comment rulemaking would have led to a dramatic, immediate surge of asylum applicants at the border that would have had the impact they suggest."); *see also E. Bay Sanctuary*, 993 F.3d at 676 ("no evidence has been offered to suggest that any of its predictions are rationally likely to be true. The article does not directly relate to the Rule, the consequences of the Rule, or anything related to asylum eligibility.")

reliance on EOs, by themselves, cannot form the basis for good cause.[20] That is because EOs, by themselves, cannot provide the basis for emergency action, especially more than six months after their issuance.[21]

Therefore, good cause has not been shown under the proffered APA exceptions.

b) The Foreign Affairs Exception to the APA Notice and Comment Requirement Is Also Inapplicable

USCIS also attempts to establish good cause through the foreign affairs exception to the APA requirements. USCIS conclusory states that Secretary of State Marco Rubio 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 [sic] a foreign affairs function of the United States under the APA." This determination by the secretary has been interpreted to mean that all regulation impacting foreigners within the United States falls within this exception. However, that is not the case.

An agency does not have interpretive authority over the APA.[22] Courts review these determinations *de novo* based on the record at hand. However, the record offers scant evidence of how this action will *directly* impact the U.S.'s foreign relations. Further, the evidence that is provided suggests *indirect* international impacts, at best. The exception's application turns on the relationship of the *rule* to activities or actions characteristic of international relations, not the relationship of the *program* affected by the rule.[23]

During the first Trump administration, USCIS had attempted to issue IFRs and other final rules through the foreign affairs exceptions, and these rules were generally found to not fit within this exception.[24] To be covered by the foreign affairs function exception, a rule must clearly and directly involve activities or actions characteristic to the conduct of international relations. If it involves indirect effects, these indirect effects must be involved with an international function of the U.S. for this exception to apply.[25]

Here, the IFR does not involve the mechanisms through which the United States conducts relations with foreign states. The IFR overhauls the work authorization procedure through which the United States decides whether noncitizens who are present in the U.S. can receive automatic extension of their work authorization, no matter their country of origin. No country is being singled out; no agreements are being sought after; the program is purely domestic; and this IFR is not being used as leverage or in any other

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[20] *Nat. Res. Def. Council, Inc. v. U.S. E.P.A.*, 683 F.2d 752, 767 (3d Cir. 1982); *see also*, Andrew S. Coghlan, *The Good Cause Exception to Notice and Comment Rulemaking*, Congressional Research Service, *14 (Aug. 27, 2025) available online: https://www.congress.gov/crs-product/R44356.

[21] *Chamber of Commerce of United States v. United States Dep't of Homeland Sec.*, 504 F. Supp. 3d 1077. 1087-88 (N.D. Cal. 2020) ("Good cause cannot arise as a result of the agency's own delay[.] Although both agencies cited to 'skyrocketing' and 'widespread' unemployment rates as a basis to find 'immediate' action was necessary, they did not do so for over six months. Similar delays have precluded reliance on the good cause exception.").

[22] *CAIR Coal.*, 471 F. Supp. 3d at 57 (D.D.C. 2020) (*quoting Sorenson Commc'ns Inc. v. FCC,* 755 F.3d 702, 706 (D.C. Cir. 2014) and *Envirocare of Utah, Inc. v. Nuclear Regulatory Comm'n*, 194 F.3d 72, 79 n.7 (D.C. Cir. 1999) (noting that "when it comes to statutes administered by several different agencies—statutes, that is, like the APA ...—courts do not defer to any one agency's particular interpretation")).

[23] *E.B. v. U.S. Dep't of State*, 583 F. Supp. 3d 58, 66 (D.D.C. 2022) (Emphasis in original).

[24] *E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 675 (9th Cir. 2021) (the government did not show it properly applied the foreign affairs exception in rule issued by DOJ and USCIS) (*E. Bay Sanctuary*); *Capital Area Immigrants' Rights Coal. v. Trump*, 471 F. Supp. 3d 25, 57 (D.D.C. 2020) (*CAIR Coal.*) (same)

25 *E.B. v. U.S. Dep't of State*, 583 F. Supp. 3d 58, 62-67 (D.D.C. 2022).

way in the realm of international relations. The IFR involves, at best, indirect effects such as remittances.[26] Therefore, the foreign affairs exception does not apply, and pre-implementation notice and comment were required before the rule was finalized.

An agency cannot use the good-cause exception to evade notice and comment simply because it regrets what it did on the merits on previous occasions.[27] Use of the APA exceptions as USCIS does would make the general rule requiring notice and comment a nullity.[28] Therefore, our organizations respectfully request that USCIS rescind this IFR because it has not shown good cause for its pre-comment implementation.

III. The IFR Is Arbitrary and Capricious Under the APA

The IFR is arbitrary and capricious under the APA because it is not based on evidence, ignores or misstates the processes it affects, and proposes a policy that does not address the problem it purports to solve. USCIS does not justify its reversal of prior rulemaking, including a rule implemented less than one year ago. The agency also fails to adequately consider obvious alternatives and reliance interests.

Via this IFR, USCIS reverses two final rules it promulgated in 2016[29] and 2024[30] to address harmful gaps in employment authorization caused by USCIS processing backlogs. Prior to 2016, USCIS was required by regulation to adjudicate EAD applications within 90 days, or an applicant would be eligible to receive an interim document to evidence work authorization for up to 240 days.[31] With the 2016 regulation, USCIS eliminated its 90-day processing requirement and implemented a 180-day automatic extension for renewals in certain EAD categories. In 2024, USCIS recognized that the 180-day extension was insufficient to prevent significant harm caused by gaps in employment eligibility considering the Agency's processing delays and permanently implemented an automatic extension to up to 540 days.

Now, USCIS proposes to reverse course and eliminate the automatic extensions entirely, without reimplementing the pre-2016 90-day adjudication mandate and 240-day interim document. The agency acknowledges this proposal will cause gaps in employment eligibility, resulting in the same substantial harms it identified as its rationale for implementing the automatic extensions in its 2016 and 2024 rules. It concedes that extended and unpredictable processing times remain a problem and does not articulate or support any changed conditions that would explain its reversal. In dismissing the possible alternative

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[26] 90 FR 48815.

[27] Corbin K. Barthold, *Does the Trump Administration Have "Good Cause" to Skip Notice and Comment?*, The Federalist Society (May 16, 2025) available online: https://fedsoc.org/commentary/fedsoc-blog/does-the-trump-administration-have-good-cause-to-skip-notice-and-comment.

[28] *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1927 FN10 (2020) (Thomas, J. Concurring in Part).

[29] Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers, 81 Fed. Reg. 82,398 (Nov. 18, 2016) (to be codified at 8 C.F.R. pts. 204, 205, 214, 245, and 274a), available at https://www.federalregister.gov/documents/2016/11/18/2016-27540/retention-of-eb-1-eb-2-and-eb-3-immigrant-workers-and-program-improvements-affecting-high-skilled.

[30] Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants, 89 Fed. Reg. 101208 (Dec. 13, 2024) (to be codified at 8 C.F.R. pt. 274a), available at https://www.federalregister.gov/documents/2024/12/13/2024-28584/increase-of-the-automatic-extension-period-of-employment-authorization-and-documentation-for-certain#footnote-39-p101213.

[31] *See* 8 CFR 274a.13(d) (2016). *See also* Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain Employment Authorization Document Renewal Applicants, 89 Fed. Reg. 101208 (Dec. 13, 2024) (to be codified at 8 C.F.R. pt. 274a), available at https://www.federalregister.gov/documents/2024/12/13/2024-28584/increase-of-the-automatic-extension-period-of-employment-authorization-and-documentation-for-certain#footnote-39-p101213.

policies of reverting to a 180-day automatic extension or to pre-2016 interim employment documents, the Agency reasons that they "might reduce the impact on the affected regulated public and the public as a whole, [but they] suffer the same flaws" as the current 540-day automatic extension.[32]

USCIS' entire basis for this rule, and the purported flaws of *any* policy that could mitigate the harms it will admittedly cause to a broad scope of stakeholders, is the idea that such measures "grant the benefit… 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."[33] USCIS argues without evidence that automatic extensions "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."[34]

The security risks USCIS cites as the basis for its reversal are speculative and unsupported by evidence. USCIS does not include any actual evidence or examples of the types of nefarious activities it fears. There is no evidence to support the underlying premise of dangerousness among immigrant communities, and USCIS does not address the fact that credible studies on the issue tend to indicate immigrants have a lower crime rate than their U.S.-born neighbors, and that the presence of immigrants tends to improve security in U.S. communities.[35] USCIS further fails to support the premise that security is improved when individuals experience gaps in employment authorization. For example, the agency cites data from February 2024 showing that USCIS received an average of 52,800 automatic extension applications per month in FY 2023.[36] However, it does not provide any data indicating that beneficiaries of these extension requests possessed derogatory information that would disqualify them from receiving the benefits in question. This reliance on conjecture underscores that the agency's decision-making process for implementing this IFR is based on speculative assumptions rather than solid empirical data. The agency offers no evidence to suggest that the United States will be made safer by increasing the number of individuals and families experiencing economic destabilization while they wait for USCIS to adjudicate timely-filed EAD applications. Without data, the agency cannot rationally demonstrate this connection.

Rather, the IFR includes a single anecdote about an individual who committed a particularly violent act as the beneficiary of an EAD auto-extension.[37] In citing this example USCIS seems to suggest, but does not explain or support, the idea that the proposed rule would have prevented the crime by interrupting the individual's employment authorization until USCIS got around to adjudicating his EAD renewal. The agency does not explain whether a routine I-765 adjudication could have uncovered derogatory facts about that individual at any time prior to the commission of his crime, or how a lack of employment authorization

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[32] Removal of the Automatic Extension of Employment Authorization Documents, 90 Fed. Reg. 48799, at 48810 (Oct. 30, 2025) (to be codified at 8 C.F.R. pt. 274a), available at https://www.federalregister.gov/documents/2025/10/30/2025-19702/removal-of-the-automatic-extension-of-employment-authorization-documents#p-297.
[33] *Id.*
[34] *Id.*
[35] National Institute of Justice, *Undocumented Immigrant Offending Rate Lower Than U.S.-Born Citizen Rate*, (Sept. 12, 2024), available at https://docs.house.gov/meetings/JU/JU01/20250122/117827/HHRG-119-JU01-20250122-SD004.pdf; Brianna Seid, Rosemary Nidiry & Ram Subramanian, *Debunking the Myth of the 'Migrant Crime Wave*, Brennan Ctr. for Just. (May 29, 2024), https://www.brennancenter.org/our-work/analysis-opinion/debunking-myth-migrant-crime-wave; Mary Spiro, *Sociological Research Reveals How Immigrants Can Reduce Crime*, Am. Soc. Ass'n (Oct. 31, 2025), https://www.asanet.org/sociological-research-reveals-how-immigrants-can-reduce-crime/.
[36] Removal of the Automatic Extension of Employment Authorization Documents, 90 Fed. Reg. 48799, at 48807, FN 97 (Oct. 30, 2025).
[37] Removal of the Automatic Extension of Employment Authorization Documents, 90 Fed. Reg. 48799, at 48808 (Oct. 30, 2025) (to be codified at 8 C.F.R. pt. 274a), available at https://www.federalregister.gov/d/2025-19702/p-272.

would have prevented it. As terrible as the crime may be, the conclusion USCIS suggests we draw from this single example does not follow.

Likewise, the IFR refers to "frivolous, fraudulent or otherwise non-meritorious EAD filings"[38] without providing data to support a suggestion that these types of applications are a significant problem.

USCIS appears in the IFR to misunderstand, or misstate, the automatic extension policies to suggest a nonexistent causal relationship between automatic extensions and vetting delays. Explaining the 2016 and 2024 regulations, USCIS notes that "while these applicants were screened in the context of their initial EAD application(s), the automatic extensions allows [sic] 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 could impede USCIS from timely identifying derogatory information* or other concerns that may have arisen since the adjudication of the initial EAD"[39] (emphasis added). It is correct that the extensions only benefit renewal applicants who have already been vetted at least once for their initial EAD and likely faced prior vetting for the underlying basis of EAD eligibility. USCIS is not correct to suggest that automatic extensions cause or require USCIS to delay adjudications or inquiry into an applicant. That is false. By their own terms, automatic extensions are only viable while the underlying I-765 remains pending. Once USCIS adjudicates the application, it is no longer pending. *If the adjudication results in a denial, the automatic extension ends,* and where true security risk is evident USCIS may pursue investigation or enforcement actions where appropriate.[40] If the agency adjudicates the application and grants the request, the applicant remains work authorized and the automatic extension has served the purpose of preventing processing delays from inflicting economic consequences for individuals, families, employers, and entire communities.

USCIS fails to address that the central problem is one that it creates itself – the agency's own processing delays. USCIS does not argue that the harmful processing times that motivated its 2016 and 2024 rulemaking have resolved, nor does it appear in this IFR to even consider reimposing the pre-2016 requirement that it adjudicate EAD applications within 90 days. Instead, the agency offers only speculation that its recent terminations of TPS designations and parole programs may result in fewer applications, freeing up adjudicatory resources to reduce processing times for renewals.[41] At the same time, it acknowledges that "USCIS cannot predict future fluctuations... and lacks data to accurately assess evolving circumstances and unknown factors that contribute to backlogs."[42] In the face of this uncertainty, the agency 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..."[43] To the extent that USCIS is concerned about possible safety risks caused by its own failure to timely adjudicate applications, it does not propose in this IFR to speed the adjudicatory processes that it claims will identify potential bad actors. The agency also fails to provide data to justify

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[38] *Id*. at 48800, 48806, and 48817.
[39] *Id.* at 48808 (Oct. 30, 2025) (to be codified at 8 C.F.R. pt. 274a), available at https://www.federalregister.gov/d/2025-19702/p-261.
[40] The IFR references this fact only to argue that employers may not know whether a denial has occurred, thus ending the automatic extension. USCIS does not appear to consider any alternative to allow for employer notice that would prevent the broad harms of this rule.
[41] Removal of the Automatic Extension of Employment Authorization Documents, 90 Fed. Reg. 48799, at 48809 (Oct. 30, 2025) (to be codified at 8 C.F.R. pt. 274a), available at https://www.federalregister.gov/d/2025-19702/p-272. USCIS does not factor in impacts from other recent policy changes that will increase evidentiary burdens on applicants across multiple benefit request types, taxing USCIS adjudicator time with additional review.
[42] *Id.* At 48816-17.
[43] Removal of the Automatic Extension of Employment Authorization Documents, 90 Fed. Reg. 48799, at 48817 (Oct. 30, 2025) (to be codified at 8 C.F.R. pt. 274a), available at https://www.federalregister.gov/d/2025-19702/p-402.

removing the automatic extensions that currently protect stakeholders from harm caused by its own processing delays.

Finally, the IFR does not adequately address the reliance interests of stakeholders. Employers, advocates, and individual applicants have relied on automatic extensions for nearly a decade to bridge adjudications and prevent gaps in employment eligibility. USCIS suggests that harms caused by the rule may be ameliorated with "proper planning" by individual applicants and employers. However, USCIS' own policies punish proactive applicants with increased costs and diminishing returns. USCIS guidance states that applicants should apply for a renewal EAD not more than 180 days before expiry of a current EAD because the agency does not backdate or postdate renewals in relation to current document validity.[44] Applying early means paying fees more frequently to receive overlapping, not consecutive, EADs to try to limit gaps in eligibility. Even then, gaps may occur. USCIS states that applicants can mitigate risks by monitoring EAD processing times to determine when to file, at the same time stating that the agency itself "cannot predict future fluctuations [in EAD processing times] because they are dependent on variables that may change or are unanticipated."[45] It is not reasonable to assume that individual applicants are better positioned to understand or predict patterns in I-765 adjudications and processing times than the adjudicating agency itself.

USCIS acknowledges that the rule will have a destabilizing effect on immigrant workers and their employers. As explained above, the destabilizing effects will have widespread economic and systems-level ramifications. Entire communities and economies are stakeholders in this rule. USCIS has failed to adequately address the broader reliance interests at stake. It has proposed a policy that it cannot reasonably expect to solve the problem it purports to solve, the existence of which it does not support with any evidence. The IFR is arbitrary and capricious under the APA.

IV. The IFR Conflicts with Fundamental Humanitarian and Economic Principles Embodied in U.S. Immigration Law

U.S. immigration policy has long recognized that humanitarian protection and lawful self-support are intertwined. Congress and the Executive Branch have repeatedly provided employment authorization to individuals with pending or granted protection claims, not as a windfall, but to ensure basic self-sufficiency while the government completes adjudication and to avoid needless destitution for families with deep ties to local communities. Ending automatic extensions despite persistent adjudication backlogs severs that link between humanitarian protection and lawful self-support, pushing otherwise authorized workers into avoidable job loss, and with it the predicable risks of housing instability, food insecurity, and foregone medical care. These are harms that nonprofit legal services programs, including CLINIC Affiliates, already document during periods of processing delay even when some extension mechanisms are available.[46]

The economic record points the same way. When eligible immigrants can work, they fill gaps in sectors that face chronic labor shortfalls and contribute immediately to local economies. After reviewing recent American Community Survey data, FWD.us reports that asylum seekers with work authorization

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[44] U.S. Citizenship and Immigration Services**,** *Form I-765, Application for Employment Authorization*, https://www.uscis.gov/i-765 (Nov. 10, 2025) at https://www.uscis.gov/i-765.

[45] Removal of the Automatic Extension of Employment Authorization Documents, 90 Fed. Reg. 48799, at 48819 and 48816 (Oct. 30, 2025) (to be codified at 8 C.F.R. pt. 274a), available at https://www.federalregister.gov/d/2025-19702/p-387.

[46] Catholic Legal Immigration Network, Inc., *Public Comment in Response to the Temporary Final Rule on Temporary Increase of the Automatic Extension Period of Employment Authorization and Documentation for Certain EAD Renewal Applicants* (June 6, 2024), https://www.cliniclegal.org/file-download/download/public/74327.

demonstrate high labor-force participation and help stabilize regional labor markets; restricting or delaying work authorization, by contrast, imposes costs on families, employers, and the broader economy.[47] Leading business organizations likewise identify persistent, economy-wide worker shortages and emphasize that expanding lawful work authorization helps alleviate binding labor constraints rather than displacing U.S. workers.[48]

Most salient for the administrative record, the U.S. Department of Labor (DOL) itself has recently characterized agricultural labor shortages as urgent and potentially destabilizing for the food supply. In an October 2, 2025, *Federal Register* rulemaking revising the Adverse Effect Wage Rate methodology, DOL invokes good-cause to act swiftly in part because "current and imminent labor shortage … presents a sufficient risk of supply shock-induced food shortages," and concludes that without prompt action "agricultural employers will face severe labor shortages, resulting in disruption to food production, higher prices, and reduced access for U.S. consumers." The USCIS further finds that "qualified and eligible U.S. workers will not make themselves available in sufficient numbers, even at current wage levels," underscoring the structural nature of these gaps.[49] Taken together, these findings from the nation's central labor agency reinforce that withdrawing authorized workers from the labor market, hereby eliminating automatic extensions while renewals languish, predictably magnifies shortages and price pressures.

Viewed as a whole, the IFR's effects fall most heavily on the individuals and families who rely on stable work authorization to meet their basic needs while the government completes processing of their applications. The rule does not merely create administrative inconvenience; it guarantees job loss for people who have followed every requirement of the law and filed renewals on time. For many CLINIC Affiliate clients, even brief interruption in employment means missed rent, loss of childcare, transportation barriers, and gaps in access to food and medical care. These are consequences that destabilize families, undermine community integration, and generate preventable crises for households already living close to the margin. A policy that predictably increases unemployment among eligible workers, increases household vulnerability, and exacerbates existing labor shortages is fundamentally at odds with the humanitarian and economic principles underlying U.S. immigration administration.

V. CONCLUSION

Our organizations strongly oppose the Interim Final Rule's eliminating automatic extensions of employment authorization. Although we support USCIS's interest in maintaining an effective employment-authorization system, the IFR fails to account for the profound and immediate harm it will cause to individuals who have complied with all legal requirements. By removing the only safeguard against adjudication delays, the rule guarantees job loss for eligible workers and destabilizes families who rely on steady income for basic needs. We urge USCIS to withdraw the IFR and to preserve a framework that ensures continuity of work authorization for those who remain fully eligible to work while their renewals are pending.

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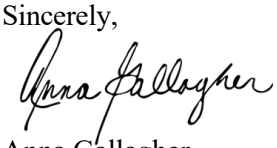
[47] FWD.us, *People Seeking Asylum Are Contributing to the Workforce* (Oct. 21, 2025), https://www.fwd.us/news/people-seeking-asylum-are-contributing-to-the-workforce/.

[48] U.S. Chamber of Commerce, *The Border Is Secure. A Worker Shortage Means Our Economy Isn't. Let's Fix It. (*2025), https://www.uschamber.com/workforce/the-border-is-secure-a-worker-shortage-means-our-economy-isnt-lets-fix-it; see also *U.S. Chamber of Commerce, America Works: A Report on the Nation's Workforce Crisis* (2021), https://www.uschamber.com/workforce/education/the-america-works-report-quantifying-the-nations-workforce-crisis.

[49] U.S. Dept. of Labor, Employment & Training Admin., *Adverse Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in Non-Range Occupations in the United States*, 90 Fed. Reg. 47914 (Oct. 2, 2025), https://www.federalregister.gov/documents/2025/10/02/2025-19365/adverse-effect-wage-rate-methodology-for-the-temporary-employment-of-h-2a-nonimmigrants-in-non-range.

Thank you for your consideration of these comments.

Sincerely,



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