U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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November 5, 2026

The Honorable Chuck Grassley
Chairman
The Honorable Dick Durbin
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Jim Jordan
Chairman
The Honorable Jamie Raskin
Ranking Member
Committee on the Judiciary
House of Representatives

Subject: *Department of Homeland Security: Removal of Automatic Extensions for Certain Employment Authorization Documents*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Homeland Security (DHS) entitled "Removal of Automatic Extensions for Certain Employment Authorization Documents" (RIN: 1615-AD05). We received the rule on October 14, 2026. It was published in the *Federal Register* on October 14, 2026. 91 Fed. Reg. 51924. The stated effective date of the rule is October 14, 2026.

On October 30, 2025, DHS published an interim final rule (IFR) that amended DHS regulations to end the practice of automatically extending the validity of employment authorization documents for aliens who have timely filed an application to renew their employment authorization documents (EADs) in certain employment authorization categories. According to DHS, the present final rule responds to comments received on the IFR and reaffirms and finalizes the provisions of the IFR. DHS stated ending the automatic extension of EADs enhances benefit integrity and prioritizes the proper vetting and screening of aliens before granting a new period of employment authorization and/or a new EAD.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on October 14, 2026. 91 Fed. Reg. 51924. The *Congressional Record* does not indicate when the final rule was received. The stated effective date of the rule is October 14, 2026. Therefore, the stated effective date of the rule is less than 60 days from the date of publication in the *Federal Register*.[1]

[1] DHS stated in the rule that there was good cause to waive the 60-day delay in the effective date in accordance with 5 U.S.C. § 808(2), which provides that the required delay does not

Enclosed is our assessment of DHS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me at (202) 512-8156.



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Enclosure

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U.S. Citizenship and Immigration Services

apply if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. 91 Fed. Reg. at 65367; *see* 5 U.S.C. § 808(2). Such a finding by an agency also exempts a rule from the notice-and-comment requirements of the Administrative Procedure Act (APA). 5 U.S.C. § 553(b)(B). DHS stated that, because this rule makes permanent the October 2025 IFR that would otherwise continue to apply for months before this final rule has practical effect, DHS has for good cause found that the 60-day delay typically required under 5 U.S.C. § 801(a)(3)(A) is unnecessary. *Id.* However, DHS's cited exception only applies to rules where notice and comment procedures have been waived. *See* 5 U.S.C. § 808(2). Additionally, DHS solicited comments as part of the previously issued IFR and responded to those comments in this rule. *Id.* at 65310; *see Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 683–84 (2020) (concluding that a request for comment in an IFR satisfied APA's notice-and-comment requirements). Therefore, the CRA exception to the 60-day delay in effective date does not apply.

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HOMELAND SECURITY
ENTITLED
"REMOVAL OF AUTOMATIC EXTENSIONS FOR CERTAIN EMPLOYMENT AUTHORIZATION DOCUMENTS"
(RIN: 1615-AD05)

(i) Cost-benefit analysis

The Department of Homeland Security (DHS) prepared a summary of the cost and benefits of the final rule. 91 Fed. Reg. 65306, 65355 (Oct. 14, 2026). DHS stated the final rule had unmonetized benefits by reaffirming and finalizing the provision of the interim final rule to prioritize the proper vetting and screening of aliens to ensure continued eligibility before granting a new period of employment authorization by ending the practice of automatically extending the validity of employment authorization for certain categories. *Id.*

DHS also estimated the final rule had monetized costs. *Id.* DHS estimated the final rule would cost $450.2 million in lost productivity and labor turnover costs. *Id.* DHS estimated a transfer of $138.1 million from aliens to American workers. *Id.* Finally, DHS estimated a transfer of $14.5 million in tax revenue. *Id.* According to DHS, earnings changes may result in a reduction of employment taxes from employers and alien employees to the federal government but that jobs acquired by American workers could offset some or all of this reduction. *Id.*

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

DHS determined it did not need to certify the effects of the final rule or perform a regulatory flexibility analysis because the RFA does not require the agency to do so for rules where the agency does not publish a proposed rule. 91 Fed. Reg. at 65366.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

DHS determined the final rule does not contain a federal mandate as defined in the Act. 91 Fed. Reg. at 65367.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On October 30, 2025, DHS issued an interim final rule titled, "Removal of the Automatic Extension of Employment Authorization Documents,'' with a request for comment. 90 Fed. Reg. 48799. DHS received 653 comments on the interim final rule. 91 Fed. Reg. at 65310.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

DHS stated the final rule does not impose any new information collection requirements under PRA, but the final rule does have one information collection requirement that has been previously approved by the Office of Management and Budget (OMB). 91 Fed. Reg. at 65368.

Statutory authorization for the rule

DHS promulgated the final rule pursuant to sections 1103, 1158, 1184, 1254a, and 1324a of title 8, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

DHS stated the final rule was determined to be a significant regulatory action and had been reviewed by OMB. 91 Fed. Reg. at 65307.

Executive Order No. 13132 (Federalism)

DHS determined the final rule 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. 91 Fed. Reg. at 65367