

# USCIS' Final Rule on EAD Extensions

*Rule purports to save employers \$3.5 billion in onboarding costs.*



On December 13, 2024, U.S. Citizenship and Immigration Services (USCIS) published a [final rule in the Federal Register](#), establishing permanent changes to the duration of Employment Authorization Document (EAD) extensions and clarifying eligibility requirements.

Employers are prohibited from hiring individuals who lack work authorization. A common way for foreign nationals to demonstrate work authorization is by presenting an Employment Authorization Document (EAD) during the completion of Form I-9. These EADs are typically time-limited but

can be renewed. In certain cases, employees may continue working even if their EAD appears expired, and employers are required to accept this "extended" EAD.

The final rule enshrines the temporary rules we've followed since May 2022<sup>1</sup>. Specifically, if an employee or new hire presents an EAD that is expiring or expired and includes a specific category code<sup>2</sup>, along with a Form I-797C showing that they have applied for renewal in the same category prior to the EAD's expiration, the EAD's validity is automatically extended for 540 days.

For example, if a new hire or existing employee presents an EAD bearing category code C08 with an expiration date of 1/1/2025 along with a Form I-797C lists a "received" date of 12/1/2024 and a "category requested" of C08, they can work until June 24, 2026 (unless their renewal application is denied).

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1. There was a period of time that the analysis had reverted back to its prior (180 day) state, from late 2023 to early 2024. However, this rule was ultimately applied to applications filed within that period retroactively in the 2024 temporary rule.

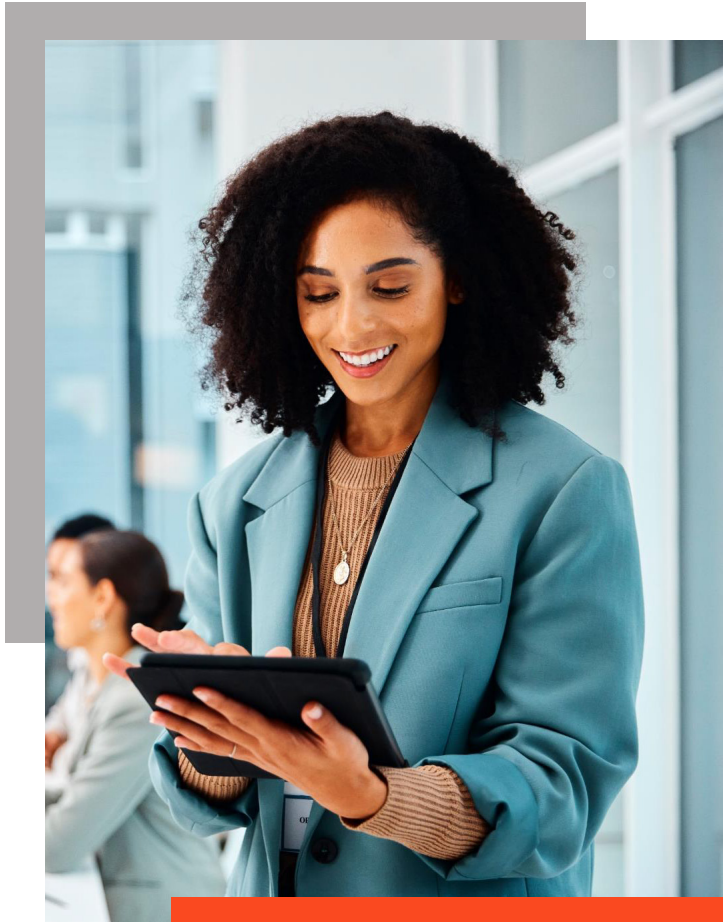
2. EADs bearing one of [these](#) category codes are eligible for extension.

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However, the rule does narrow extension eligibility for holders of two types of EADs, those bearing category code "A12" or "C19." These noncitizens have either applied for or have been granted Temporary Protected Status (TPS). Moving forward, these EADs can only be extended if (a) a renewal request is filed prior to a date set in the Federal Register Notice announcing the TPS extension and redesignation (the "re-registration date"); and (b) will only extend the EAD until the end of the TPS designation (which can be less than 540 days).<sup>3</sup>

For example, if a new hire or existing employee presents an EAD bearing category code A12 with an expiration date of 8/3/2024 while designating "Haiti" and a Form I-797C listing a "received" date of 7/4/2024 (prior to the 08/30/2024 re-registration date) and a "category requested" of either A12 or C19, they can work until January 24, 2026 (the shorter of the 540-day extension period and the TPS designation expiration).

According to USCIS, the permanent rule change was required because of the need to "address large spikes in EAD filings and other circumstances that may occur in the future and increase renewal EAD processing times." USCIS recommends that individuals apply for an EAD up to 180 days before the current EAD expires. The current processing time for some EADs is more than fourteen months; thus necessitating the extension period. ■



3. More information on TPS designations can be found [here](#).

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