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Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
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Submitted via <http://www.regulations.gov>.

Re: Department of Homeland Security, U.S. Citizenship and Immigration Services, Notice of Proposed Rulemaking; *Employment Authorization Reform for Asylum Applicants* (DHS Docket No. USCIS–2025–0370; CIS No. 2799–25; RIN 1615–AC97)

Dear Ms. Deshommes:

The American Immigration Lawyers Association (AILA) and the American Immigration Council (the Council) submit the following comment in opposition to the above-referenced Department of Homeland Security (DHS) Notice of Proposed Rule Making (“NPRM” or “proposed rule”), DHS Docket No. USCIS–2025–0370 CIS No. 2799–25; RIN 1615–AC97, *Employment Authorization Reform for Asylum Applicants* (February 23, 2026).

The NPRM proposes sweeping changes that will effectively end access to work authorization for asylum applicants while their claims are pending. The explanations stated do not provide a rational justification for the drastic limits imposed on employment authorization documents (“EADs” or “work permits”), the terms used in the NPRM are vague and unclear, and the NPRM fails to consider the interplay with other recent policies. Instead of forming a coherent regulatory framework, the NPRM layers multiple barriers designed to make it impossible for asylum seekers to avail themselves to protection under U.S. and international law by making it economically untenable, worsening backlogs, arbitrarily denying U.S. employers the ability to access a potential workforce, making it more difficult to access counsel, and inducing more lawsuits that will contribute to our already backlogged federal courts.

This proposed rule lacks rational justification based upon actual data and will cause immense harm and further backlogs. DHS should withdraw this proposed rule in its entirety.

I. About AILA and the Council

Established in 1946, AILA is a voluntary bar association of over 18,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. AILA's mission includes the advancement of the law pertaining to immigration and naturalization and the facilitation of justice in the field. AILA members regularly advise and represent U.S. businesses and asylum seekers regarding the application and interpretation of U.S. immigration laws which makes us particularly well-suited to provide these comments.

The Council is a nonprofit organization established to increase public understanding of immigration law and policy, advocate for just and fair administration of our immigration laws, protect the legal rights of noncitizens, and educate the public about the enduring contributions of America's immigrants. The Council litigates in the federal courts to protect the statutory, regulatory, and Constitutional rights of noncitizens, and advocates on behalf of asylum seekers before Congress.

II. DHS's Explanations Do Not Provide a Rational Justification for Drastic Limits on Employment Authorization Eligibility

DHS proposes more than 15 substantive changes to longstanding law and policy governing asylum seekers' eligibility for work authorization. These provisions would make it functionally impossible for asylum seekers to obtain or maintain a work authorization while their claims are pending. A primary example is the proposed "pause" on accepting initial work permit applications whenever average affirmative asylum processing times exceed 180 days for a period of 90 consecutive days. This is an unreasonable standard with no evidence to support that the "pause" will support USCIS's goals. DHS states in the NPRM that it would take the agency "between 14 and 173 years to reach a 180-day processing time."¹ This extraordinarily imprecise timeframe demonstrates DHS has no reliable methodology to analyze the impact this proposed rule has on its own backlog. This wide-ranging estimate cannot be accepted as a reasoned proposal for the public to consider its impact on their legal ability to work in the United States, as discussed below.

DHS claims these sweeping restrictions are necessary to deter fraud, protect national security, and relieve pressure on agency resources, but the NPRM does not explain how curtailing work authorization meaningfully advances those goals. Instead, the NPRM functionally ends access to asylum-based work authorization through its so-called "pause" on initial work permits until the asylum backlog is cleared.

DHS's most forceful explanations for the proposed rule do not provide rational policy justifications. The explanations lean heavily on unproven assertions that further restricting eligibility for employment authorization 1.) will reduce "the incentive for [asylum applicants] to file frivolous, fraudulent or otherwise meritless asylum applications," and 2.) will facilitate "faster and more efficient adjudications of meritorious asylum claims."² Neither reason is supported by data or practice on the ground. DHS provides no recent evidence or data to support its justification that the current 180-day waiting period for a work permit incentivizes frivolous or fraudulent

¹ 91 Fed. Reg. 8616, 8618 (Feb. 23, 2026).

² 91 Fed. Reg. 8617; *accord* 8621, 8623, 8624, 8625, 8628.

asylum filings and needs to be extended. Rather, history tells us such changes will not lead to the desired results.

In the NPRM, DHS relies upon the same regulatory rationale provided over 30 years ago in the NPRM published in advance of the 1994 asylum EAD regulations that created the current 180-day waiting period to apply for permission to work.³ DHS claims, without evidence, the 1994 regulatory change led to a significant reduction in newly filed asylum claims a full five years later.⁴ The NPRM fails to acknowledge or analyze the potentially more significant effect of other changes that occurred during that same time frame, including Congress's enactment in 1996 of the one-year filing deadline, other bars to asylum eligibility, new sanctions for frivolous asylum filings,⁵ and expedited removal.⁶ To date, there is no conclusive (or even persuasive) evidence the imposition of the current 180-day waiting period for a work permit led to fewer fraudulent, frivolous, or non-meritorious asylum filings, and no data implying that a longer waiting period would change this.

Nonetheless, DHS relies entirely upon these decades old arguments to justify its new proposed rule, which goes much further than the 1994 regulation. DHS has failed to provide any additional justifications for the proposed 365-day waiting period or the indefinite pause on acceptance of work permit applications. DHS has failed to provide a rational connection between these new—more extreme—restrictions on employment authorization and DHS's purported goal of reducing fraudulent, frivolous, and non-meritorious asylum claims.

Similarly, DHS provides no evidence to support its justification that delaying or pausing work permit eligibility will lead to faster and more efficient adjudications of meritorious asylum claims. In fact, some of its arguments in support of other proposed changes in this NPRM undercut DHS's arguments that limiting or deferring work permit eligibility results in more efficient adjudications. For example, DHS's argument for using "derogatory information" discovered in an employment authorization application as a reason to prioritize adjudication (i.e., denial) of the underlying asylum application is that it "will increase efficiency (e.g., denying asylum applications sooner, reducing asylum backlog, etc.)" DHS argues this "prioritization would likely result in applicants that would have been denied asylum being brought in for processing faster." If this justification is valid, then it directly contradicts DHS's other central argument that adjudication of all work permit applications should be indefinitely paused or, at a minimum, delayed by over a year.

³ 91 Fed. Reg. 8631.

⁴ In fact, there was only a temporary reduction in the number of asylum claims filed after the 1994 regulations. While applications did in fact dip significantly in the late 1990's, they did not remain low. In both 2001 and 2002 new applications exceeded 60,000 and they began rising steadily again by the late-2000's, due in significant part to increasing violence and persecution in Central American countries. (See Congressional Research Service, "Asylum Process in Immigration Courts and Selected Trends," (updated December 10, 2025), <https://www.congress.gov/crs-product/R47504>; Office of Homeland Security Statistics, "Yearbook of Immigration Statistics," (last updated August 20, 2025), <https://ohss.dhs.gov/topics/immigration/yearbook>; and Office of Homeland Security Statistics, "Asylee Annual Flow Report," (last updated November 8, 2024), <https://ohss.dhs.gov/topics/immigration/asylees/annual-flow-report>) This indicates that external "push" factors likely have more to do with the number of asylum claims filed each year than do internal policies intended to deter filings.

⁵ Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 110 Stat. 3009-579.

⁶ Antiterrorism and Effective Death Penalty Act of 1996, 110 Stat. 1214.

DHS's rationale and explanation for the proposed rule are contradictory, have no connection to evidence, and fail to support the justification for drastic limitations on asylum seekers' access to work permits.

III. The Proposed Rule Includes Vague and Undefined Terms That Will Contribute to Further Agency Delays and a More Inefficient Adjudication Process.

The use of "derogatory information" is vague and violates other agency regulation.

The NPRM states USCIS will prioritize asylum applications when derogatory information is found in an EAD application review. However, the term "derogatory information" is not defined within the NPRM. While USCIS defines derogatory information in Chapter 6 of the policy manual, its definition is also vague within the policy manual ("information relevant to the adjudication and adverse to the benefit requestor's ability to demonstrate eligibility or warrant a favorable exercise of discretion for the benefit sought").⁷ Furthermore, this definition is not subject to notice and comment and thus can be changed arbitrarily. The reliance on a vague term not vetted through notice and comment to describe the information for which USCIS will screen creates confusion and will lead to internal delays within the agency's adjudication processes.

The stated purpose of screening for derogatory information is to enhance USCIS's national security and public safety posture and enable the agency to efficiently "triage and process" cases, as well as deter potentially frivolous, fraudulent, or otherwise meritless applications.⁸ Notably, "derogatory information" is addressed separately in the NPRM from ineligibility bars for significant criminal grounds, method of United States entry grounds, and failing to meet the asylum application one year filing deadline. The NPRM alludes to derogatory information being related to national security risk discovered during the security checks used to uncover certain convictions or arrests that would trigger criminal bars.⁹ This example lacks clarity on the purpose of a separate screening for derogatory information and what information, not qualifying as an aggravated felony conviction, would be considered derogatory. The NPRM mentions that derogatory information could indicate a public safety concern less severe than an aggravated felony but fails to provide clear guidance or examples.¹⁰

The NPRM asserts that the discovery of derogatory information in an EAD application will lead to the discovery and deterrence of frivolous, fraudulent, or otherwise meritless asylum cases. An asylum application can only be found to be frivolous or fraudulent if an applicant deliberately fabricates a material fact in the asylum claim.¹¹ The only mechanism identified by the NPRM to discover derogatory information is the background check, but there is no explanation how this will lead to discovering that an asylum application was fraudulent, frivolous, or meritless while adjudicating an EAD application. The NPRM provides no mechanism for adjudicators to first

⁷ 1 USCIS PM E.6, <https://www.uscis.gov/policy-manual/volume-1-part-e-chapter-6>.

⁸ 91 Fed. Reg. 8617, 8618.

⁹ 91 Fed. Reg. 8663.

¹⁰ 91 Fed. Reg. 8633.

¹¹ 8 U.S.C. §1158(d)(4 & 6), 8 C.F.R. § 208.20, 1208.20.

screen the asylum application claims to conduct the necessary fact finding to determine if there is “derogatory information” contained in the asylum application such that a case can be prioritized. As discussed above, the NPRM already addresses criminal grounds that would be caught in a background check – which makes this catchall “derogatory” information category internally redundant, duplicative, and contrary to the stated goals of the proposed rule.

Contrary to the proposed objective, the search for derogatory information during an employment authorization adjudication will increase the burden on the agency to remain consistent with existing asylum law. To follow the law, adjudicators of EADs will require advanced training in asylum law and will need to allocate additional time to review substantially more evidence beyond that essential for determining EAD eligibility. As discussed above, not only will this take more time but the alleged rationale supporting the NPRM’s use of derogatory information is inconsistent with other justifications within the proposed rule, such as a pause on adjudications.

The proposed “reason to believe” standard lacks clarity and definition such that it cannot be properly implemented and will cause more burden to the agency.

The NPRM proposes to exclude applicants from EAD eligibility where “there is reason to believe” the applicant “may be” barred from asylum for a particularly serious crime.¹² The NPRM does not provide a standard for determining when there is reason to believe an asylum bar has been triggered. It is unclear whether DHS officers are restricted to conducting background checks and reviewing the EAD administrative record, or whether they are required to undertake further investigation to adequately meet the reason to believe standard. The determination of whether a crime is particularly serious involves a multi-step, fact-intensive process that frequently extends beyond the information provided by a background check.¹³ This means that to comply with existing law, a proper analysis of potential crime bars will take adjudicators more time and training and will not increase efficiency.

Additionally, by introducing a “reason to believe” standard, USCIS is inexplicably deviating from the preponderance of evidence standard already established to determine EAD and asylum eligibility.¹⁴ This injects more confusion and lack of clarity into the adjudicatory process. Finally, while there is a nominal requirement within the proposed rule that DHS “articulate” the reason for the belief, there is no requirement that notice to the applicant be provided with the articulated reason. This one-two-punch of lack of clarity and notice is a serious due process concern.

The term “otherwise meritless” asylum case is not defined despite being a significant basis for the NPRM.

The NPRM categorizes three types of asylum applications that overburden the DHS: frivolous, fraudulent, or “otherwise meritless.” However, the term “otherwise meritless” lacks a definition, and the NPRM makes no clear distinction between bona fide asylum claims that may

¹² 91 Fed. Reg. 8618.

¹³ See *Matter of N-A-M-*, 24 I&N Dec. 336 (BIA 2007).

¹⁴ 8 C.F.R. §§ 208.13, 1208.13; 1 USCIS PM E.4(B), <https://www.uscis.gov/policy-manual/volume-1-part-e-chapter-4>.

fail to meet the final approval threshold but still warrant proper adjudication, and those cases that genuinely lack merit. The NPRM’s closest attempt at defining “otherwise meritless” asylum claims is its assertion that such claims are primarily filed to access employment authorization.¹⁵ In fact, the NPRM acknowledges that “[q]uantifying ‘meritless’ cases seems even more difficult,” and concedes that “meritless” cases are those that “possibly, [] do not meet the substantive requirements for asylum.”¹⁶

Without a clear definition for “otherwise meritless” applications in the regulatory text, the NPRM cannot accurately assert that modifying the EAD rules will result in a reduction in the number of applications filed, thereby substantially alleviating the burden on DHS. The NPRM confirms this accountability failure where it concedes “data arguably only accounts for the ‘fraudulent’ applications and likely not the ‘frivolous’ or ‘meritless’ applications.”¹⁷ An imprecise term like “meritless” provides no transparency or fair notice as to what conduct or claims fall within its scope, contrary to the APA’s requirement that agencies articulate clear, intelligible standards rather than rely on vague or undefined criteria.¹⁸

IV. Work Authorization Delays Proposed by the NPRM Will Harm Self-Sufficiency, Health, and Public Safety Which Are Counter to Administration Priorities.

Denying employment authorization for the months—or, in practice, potentially years—that many applicants wait for adjudication can foreseeably push people into avoidable poverty and dependence. When individuals are prohibited from working lawfully, they may have no realistic way to meet basic needs like rent, food, transportation, and health care, increasing the likelihood that they will need to rely on emergency shelters, charity, and publicly funded services to survive—outcomes that run directly counter to the goal of fostering self-sufficiency and avoiding “public charge” concerns.

Moreover, employment is a well-recognized social determinant of health. According to the U.S. Department of Health and Human Services, unemployed individuals report poorer health and higher rates of depression, stress/anxiety, and other adverse outcomes, and that economic insecurity and workplace-related psychosocial stressors affect both physical and mental health.¹⁹ Prolonged, government-imposed unemployment while an asylum application remains pending therefore risks compounding the trauma many asylum seekers already carry, worsening mental health, and increasing the likelihood of untreated or preventable medical conditions—especially where lack of income also limits access to stable housing, nutrition, and consistent health care.

These preventable hardships can also create downstream public-safety costs. Research syntheses have long examined the relationship between joblessness and certain forms of property crime; for example, a national case-control study highlighted by the Shorenstein Center’s Journalist’s Resource review discusses how economic marginalization and detachment from the

¹⁵ 91 Fed. Reg. 8618-8700 *passim*.

¹⁶ 91 Fed. Reg. 8638.

¹⁷ *Id.*

¹⁸ See *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (holding that due process and the APA bar enforcement of regulations that fail to give “fair notice of what is prohibited.”)

¹⁹ Office of Disease Prevention and Health Promotion (ODPHP), Healthy People 2030, Social Determinants of Health Literature Summary: Employment (noting links between unemployment and poorer self-reported health, depression and anxiety/stress outcomes) <https://odphp.health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/employment>.

labor force can be associated with higher rates of serious property offending in some populations.²⁰ While unemployment does not make crime inevitable, policies that systematically block large numbers of able and willing asylum seekers from lawful work for extended periods increase the conditions—financial desperation, housing instability, and social exclusion—that are commonly understood to elevate risk of survival-driven or opportunistic offenses. Allowing lawful employment is a practical, evidence-based way to reduce those risks while also supporting compliance with the legal process.

V. The NPRM Would Make It Much Harder for Asylum Seekers to Obtain Immigration Counsel and Pursue Their Claims for Protection.

By rendering asylum seekers unable to lawfully work, the NPRM would also severely undermine asylum seekers' ability to obtain legal representation and pursue their claims, which would alleviate the burdens currently placed on the asylum system. Preparing an asylum claim is notoriously complex and costly, and many asylum seekers rely on their ability to work to afford counsel and gather and prepare the evidence necessary to support their cases.

Without the ability to earn income, many asylum seekers will be forced to navigate complex immigration proceedings without legal assistance. This is particularly concerning in asylum proceedings before immigration courts, where applicants must present legal arguments and evidence in an adversarial process against a government attorney and before an immigration judge. By making it far more difficult for asylum seekers to earn the income needed to secure legal counsel, the proposed rule will predictably force many individuals to confront these life-or-death proceedings alone. The result will not merely be procedural disadvantage—it will be a dramatically increased risk that individuals with valid claims for protection will be removed to countries where they face persecution, torture, or other grave harm.

Making it harder for asylum seekers to obtain immigration counsel will make the asylum system less efficient, not more. Legal representation increases efficiency and decreases delays within the asylum system.²¹ Many self-represented individuals request continuances²² for the reason of preparing their cases or securing legal representation, issues that would be alleviated if legal counsel is available at the beginning of the case. Doing so would allow immigration judges to adjudicate more cases in less time, reducing the sizeable asylum backlog, while also ensuring due process rights are not infringed.

²⁰ Journalist's Resource (Harvard Kennedy School, Shorenstein Center), "How unemployment affects serious property crime: A national case-control study" (summarizing Kleck & Jackson, 2016, *Journal of Quantitative Criminology*), (February 14, 2016), <https://journalistsresource.org/economics/unemployment-property-crime-burglary>.

²¹ See e.g., American Immigration Lawyers Association (AILA), "AILA Policy Brief: Recommendations on the Expansion and Implementation of Immigration Legal Representation Programs," (March 1, 2022), <https://www.aila.org/library/aila-policy-brief-recommendations>.

²² Department of Justice Office of the Inspector General Evaluation and Inspections Division, "Management of Immigration Cases and Appeals by the Executive Office for Immigration Review," (October 2012), <https://www.govinfo.gov/content/pkg/GOVPUB-J37-PURL-gpo133973/pdf/GOVPUB-J37-PURL-gpo133973.pdf>.

VI. The Proposed Rule Will Inevitably Lead to a Backlog in the Federal Courts.

Given the anticipated substantial delays in issuing work permits for asylum seekers, as laid out in both the proposed rule and the practicalities of adjudication detailed within this comment, it is foreseeable that many applicants will seek relief in federal court to compel adjudication of their work authorization requests. This will likely contribute to further congestion in the federal judiciary, as increasing numbers of asylum seekers pursue writs of mandamus and relief under the Administrative Procedure Act²³ to address prolonged processing times.

This concern grows as detained noncitizens increase their filing of habeas corpus petitions, further burdening already strained federal court dockets, contributing to the ongoing surge in filings that strains judicial resources and complicates effective docket management.²⁴ The already heavy caseload in federal courts would only intensify if this NPRM were implemented. By creating a more opaque and burdensome process for obtaining work authorization, the NPRM exposes the government to increased litigation risk and places both applicants and adjudicators in the challenging position of navigating unclear procedural requirements simply to secure employment authorization.

VII. The Proposed Rule Fails to Consider Its Interaction with Various New Policies Restricting Asylum Seekers' Ability to Work Lawfully

The NPRM proposes changes in isolation without considering the broader policy landscape, conflicts with other regulations, and includes conflicting rationales. DHS does not meaningfully examine how this NPRM interacts with a series of recent immigration policies that already restrict asylum seekers' access to work authorization. When considered together, these policies make it extraordinarily difficult, if not impossible, for asylum seekers to seek and maintain work authorization while their asylum claims are pending. These recent policies include, but are not limited to:

- A pause on the issuance of final decisions for all pending asylum applications²⁵ and all other immigration benefits (including renewals of asylum-based EADs) for individuals from “high-risk” countries²⁶;
- New and increased fees to apply for asylum and asylum-based work permits under the One Big Beautiful Bill Act (“OBBBA”);
- The new OBBBA annual asylum fee;
- The interim final rule eliminating automatic work permit extensions;

²³ 5 U.S.C. § 706(1). The APA requires that federal agencies conclude a matter presented to it “within a reasonable time.” 5 U.S.C. § 555(b).

²⁴ As of March 23, 2026, the federal courts have received 30,372 petitions for writs of habeas corpus since January 2025. See ProPublica, “Tracking Habeas Cases,” (last updated March 23, 2026), <https://projects.propublica.org/habeas-tracker/>.

²⁵ On March 30, 2026, USCIS modified this pause by resuming the issuance of final decisions for asylum applicants from non high-risk countries. See USCIS, “Update on USCIS’ Strengthened Screening and Vetting,” (March 30, 2026), <https://www.uscis.gov/newsroom/alerts/update-on-uscis-strengthened-screening-and-vetting>.

²⁶ USCIS, “Policy Memorandum Hold and Review of USCIS Benefit Applications Filed by Aliens from Additional High-Risk Countries,” (January 1, 2026), <https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0194-PendingApplicationsAdditionalHighRiskCountries-20260101.pdf>.

- Rules and policies that make it harder for asylum seekers to submit biometrics that are required for obtaining work authorization; and
- Shortened duration of asylum seekers’ work permits from 5 years to 18 months.²⁷

Further, the NPRM’s economic and policy analysis is fundamentally outdated because it was conducted before the passage and implementation of the OBBBA. That legislation imposed significant new fees on asylum seekers, including—for the first time—fees for asylum applications and initial work permits. Those provisions have only been in effect for a matter of months, yet DHS now proposes an additional sweeping overhaul of (c)(8) work authorization without allowing sufficient time to observe or evaluate the effects of these major statutory changes. It is difficult to overstate how large an impact the OBBBA fees have already had on the ability of those fleeing persecution to apply for asylum, and consequently for a work permit. Proceeding with another major regulatory intervention before the impacts of OBBBA can be meaningfully assessed is a violation of the Administrative Procedures Act as it is an arbitrary and capricious rationale. Importantly, it risks compounding barriers to protection based on an incomplete and outdated analysis.

VIII. DHS Fails to Meaningfully Consider Less Harmful Alternatives to the Proposed Rule.

Within the NPRM, DHS fails to meaningfully evaluate reasonable alternatives to its overarching goals of benefit integrity, addressing national security and public safety concerns, and mitigating the strains on DHS’s operational resources. Instead, it focuses only on alternatives that would impose even greater restrictions and costs on asylum seeker’s access to work authorization. Notably, DHS could:

- Take a more targeted approach towards anti-fraud measures based on risk assessment, rather than imposing arbitrary restrictions on the entire pool of applicants;
- Invest in structures for a faster and more efficient asylum adjudication process, including rapidly assessing likelihood for eligibility and completing background checks upon the filing of the application to assess security risk. If a background check is clear, then an individual should immediately receive employment authorization to deter individuals from becoming public charges;
- Shorten the Form I-765 to reduce processing time burden on DHS. The form has ballooned from two pages at its inception to seven pages and is overly complicated with unnecessary data points;²⁸ or

²⁷ On December 4, 2026, USCIS issued updated guidance reducing the authorization of newly issued employment authorization documents from five years to 18 months. *See* USCIS, “Reduced Validity Periods for Newly Issued Employment Authorization Documents,” (last updated January 12, 2026), <https://www.uscis.gov/save/current-user-agencies/news-alerts/reduced-validity-periods-for-newly-issued-employment-authorization-documents>.

²⁸ *See e.g.*, American Immigration Lawyers Association (AILA), “AILA Submits Comments on Form I-765,” (December 23, 2024), <https://www.aila.org/library/aila-submits-comments-on-form-i-765>; American Immigration Lawyers Association (AILA), “AILA Reiterates Comments on Form I-765, Application for Employment Authorization,” (August 9, 2022), <https://www.aila.org/library/aila-reiterates-comments-on-form-i-765>; American Immigration Lawyers Association (AILA), “Policy Brief: Modernizing America’s Asylum System,” (March 16, 2026), <https://www.aila.org/library/policy-brief-modernizing-americas-asylum-system>; American Immigration Lawyers Association (AILA), “AILA and Partners Send Letter to DHS and USCIS about Form I-765 Processing,” (December 12, 2022), <https://www.aila.org/library/letter-to-dhs-and-uscis-form-i-765-processing>.

- Abandon the re-adjudication policy which requires officers to expend time adjudicating previously approved applications and petitions. Thereafter, the government could redirect subject matter experts and other resources to reducing the application volume created by the asylum-based adjustment of status process and shifting those resources to the asylum-based EAD. This shift would be an efficient use of government resources and would alleviate the increased processing times.

These are only some of the less harmful alternatives to the proposed rule available for DHS's consideration which collectively address the goals in a manner that is cost-effective to reach its goals without ending access to work permits for asylum seekers.

IX. Conclusion

AILA and the Council oppose this proposed rule in its entirety. The rationale for this proposed rule is arbitrary and capricious, as it is not grounded in evidence or the reality of the adjudication process and will only result in additional inefficiencies and exacerbate public charge concerns. We urge DHS to reconsider this NPRM and withdraw it in its entirety.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

THE AMERICAN IMMIGRATION COUNCIL