

EPI comment on DHS’s proposed rule on “Employment Authorization Reform for Asylum Applicants”

Public Comments • By **Daniel Costa** • April 24, 2026

Submitted via <https://www.federalregister.gov/documents/2026/02/23/2026-03595/employment-authorization-reform-for-asylum-applicants>

Division of Humanitarian Affairs
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: DHS Docket No. USCIS-2025-0370, *Employment Authorization Reform for Asylum Applicants*, Notice of Proposed Rulemaking (Feb. 23, 2026)¹

To whom it may concern:

The Economic Policy Institute (EPI) submits this comment strongly **opposing** the Department of Homeland Security’s (DHS) Notice of Proposed Rulemaking (NPRM) titled *Employment Authorization Reform for Asylum Applicants*, published February 23, 2026, and assigned DHS Docket No. USCIS-2025-0370 (i.e. the proposed rule).

About EPI and organizational interest

The Economic Policy Institute (EPI) is a nonprofit, nonpartisan think tank established in 1986 to include the needs of low- and middle-income workers in economic policy discussions. EPI conducts research and analysis on the economic status of working America, proposes policies that protect and improve economic conditions and raise labor standards for low- and middle-income workers—regardless of immigration status—and assesses policies with respect to how well they further those goals.

EPI has researched, written, and commented extensively on the U.S. system for labor migration, including on temporary immigration protections and Employment Authorization Documents (EADs), and on labor standards enforcement for both the low-wage and professional workforce. EPI has also provided expert testimony about the U.S. immigration system to both the U.S. Senate and House of Representatives, as well as state legislatures.

SECTIONS

1. Summary of the comment • 2
2. The worker rights of millions are protected by EADs • 3
3. DHS ignores the positive value and impact of work authorization on the workforce and economy, and the negative impacts of terminating and delaying work authorization • 5
4. The NPRM underestimates the economic harm to initial asylum applicants who are already employed in the U.S. workforce • 7
5. The NPRM incorrectly assumes that asylum-seekers who lose employment authorization can easily be replaced and ignores the resulting disruption to the economy • 7
6. The NPRM would push workers into the underground economy, increase labor and employment violations, weaken labor standards enforcement, and lower wages in numerous industries

Summary of the comment

• 10

The proposed rule is designed to force asylum applicants seeking haven in the United States to live in the country without being able to work or support themselves and their families. Among other changes, the proposed rule introduces extreme and potentially indefinite delays to obtain a work permit, as it proposes to extend the waiting period to apply for work authorization from 150 days to 365 days, increase the mandatory processing timelines once an initial work permit application is received from 30 days to 180 days, and pause initial work permit processing completely when average affirmative asylum processing times exceed an average 180 days.¹ The proposed rule also imposes many new eligibility barriers for both initial and renewal work permits, and would make approval of both applications completely discretionary, meaning asylum-seekers may be denied employment authorization for no reason at all.²

7. The NPRM disregards the significant reliance interests created by the existing system of asylum-based employment authorization.¹¹
8. Conclusion and recommendation.¹²

This proposed rule would be acutely harmful to asylum-seekers, but also to employers, coworkers, and spouses and children who rely on asylum-seekers' employment and income. From the perspective of worker rights, labor standards, and growth in the overall economy, this NPRM raises at least four significant concerns that should be avoided by withdrawing the proposed rule in full.

First, DHS ignores the true value and impact of work authorization on the workforce, and fails to estimate the negative economic impacts that will result from the NPRM. In addition, the proposed rule would impact many workers already participating in the U.S. workforce, including individuals the NPRM classifies as "initial" asylum applicants who previously held lawful employment authorization through programs such as Temporary Protected Status (TPS), humanitarian parole, or deferred action. By focusing on deterrence of future migration while overlooking these workforce impacts, the NPRM substantially understates both the disruption the rule would cause and the reliance interests at stake.

Second, the NPRM rests on the flawed assumption that employers can easily replace asylum-seeking workers who lose employment authorization, and that such replacement can happen quickly and without disruption to the economy. In reality, sudden workforce losses that result from the NPRM terminating or putting in jeopardy the work authorization of roughly 2 million current workers would disrupt operations across multiple industries, forcing employers to increase mandatory overtime, heightening workplace safety risks, and creating significant operational instability that would impact not only asylum-seekers but also their coworkers. Employers would also lose the experience and job-specific skills that many asylum applicants already possess.

Third, by making it far more difficult for asylum-seekers to obtain or renew work authorization, the proposed rule would eviscerate the workplace rights of millions of current and future workers, pushing many into the informal economy, increasing the risk of wage theft, retaliation, and other forms of worker exploitation. This shift would also undermine labor and employment law enforcement by making workers less likely to report violations or cooperate with investigators, weakening workplace protections and lowering labor standards for all workers. The NPRM fails to acknowledge the scope of these

enforcement and labor-standards consequences for U.S.-born citizens and foreign-born workers, half of whom are U.S. citizens.

Fourth, the NPRM fails to consider the substantial reliance interests that workers have developed around a predictable system of asylum-based employment authorization, which the NPRM would upend.

Far from streamlining the regulation of asylum-related employment authorization, the proposed rule would harm workers across the board. For these reasons, DHS should withdraw the proposed rule.

The worker rights of millions are protected by EADs

The role that Employment Authorization Documents (EADs) play when it comes to protecting worker rights and uplifting workplace standards should not be ignored and cannot be overstated. For workers who lack a permanent or more durable immigration status, obtaining a temporary EAD can mean having enforceable workplace rights that an individual would otherwise not have. While all workers have some labor and workplace rights under U.S. law—regardless of immigration status—enforcing them in practice becomes virtually impossible because of the threat of deportation, which prevents workers who lack an immigration status or an EAD from calling out lawbreaking employers and demanding that they comply with the law, or from reporting workplace violations to labor enforcement agencies. But having an asylum-based EAD, or protection from deportation through temporary administrative immigration protections like parole, Temporary Protected Status, deferred action—accompanied by an EAD—means that, in practice, workers can report workplace violations to government officials without fear of retaliation that can lead to deportation. It also means that a worker with an EAD can be employed by just about any U.S. employer and change jobs or employers, unlike, for example, migrant workers employed with temporary visas who can only be employed by the sponsor of their visa.

Altogether, nearly 5.6 million people in the U.S. held a temporary but precarious immigration status in 2024, including over 2 million people who are asylum-seekers. (see **Table 1** below).

While these statuses and protections are only a band-aid for a flawed immigration system that is deeply in need of reform,³ they have been shown to protect millions of workers from some of the worst forms of employer lawbreaking. Employers also greatly benefit from workers having a protective status and a work permit because it allows them to lawfully employ millions of people who would otherwise not be eligible to work, leading to billions in economic contributions to the U.S. economy and generating demand that stimulates growth.

Table 1

Nearly 5.6 million migrants had precarious immigration statuses in 2024

Number of migrant individuals in the United States with temporary immigration statuses or protections from removal through administrative immigration relief, and asylum-seekers, 2024

Administrative temporary immigration program or status	Number of beneficiaries
Temporary Protected Status (TPS)	1,095,115
Deferred Action for Childhood Arrivals (DACA)	537,730
Processed via CBP One app	936,500
Cuban, Haitian, Nicaraguan, and Venezuelan Parole Program (CHNV)	531,690
Uniting for Ukraine	196,000
Deferred Action: U Visa and Special Immigrant Juvenile Status	169,000
Operation Allies Welcome	75,000
Asylum-seekers (at EOIR or USCIS)	2,054,000
Total with precarious statuses	5,595,035

Economic Policy Institute

Notes: Table may reflect some double counting and thus numbers in categories may be higher than actual individuals, because, for example, some unknown share of individual asylum-seekers are likely to overlap with individuals counted in other categories; for example, some Afghans paroled through Operation Allies Welcome, CHNV parolees, and CBP One parolees may have also applied for asylum, and some parolees may have become eligible for Temporary Protected Status, etc. EOIR stands for the Executive Office for Immigration Review, the formal name for the U.S. immigration courts, and is a subagency of the U.S. Department of Justice. USCIS stands for U.S. Citizenship and Immigration Services, a subagency of the U.S. Department of Homeland Security.

Source: Adapted from Table A1 in Jeanne Batalova, Julia Gelatt, and Michael Fix, *How Immigrants and their U.S.-Born Children Fit into the Future of the U.S. Labor Market*, Migration Policy Institute, April 2024 (methodology explained in report), and Table 3 in Jennifer Van Hook, Ariel G. Ruiz Soto and Julia Gelatt, *The Unauthorized Immigrant Population Expands amid Record U.S.-Mexico Border Arrivals*, Migration Policy Institute, February 2025. Amendments and additions made by author include data from U.S. Citizenship and Immigration Services, "[Count of Active DACA Recipients by Month of Current DACA Expiration, as of September 30, 2024](#)" [excel spreadsheet], last accessed on March 4, 2025; U.S. Customs and Border Protection, "[CBP Releases December 2024 Monthly Update](#)," Newsroom, last updated January 27, 2025; and Jill Wilson, *Temporary Protected Status and Deferred Enforced Departure*, Congressional Research Service, RS20844, updated December 5, 2024.

DHS ignores the positive value and impact of work authorization on the workforce and economy, and the negative impacts of terminating and delaying work authorization

In the NPRM, DHS does not estimate and consider the true value and impact that EADs have on the workforce and economy, not even specifically for asylum-seekers. There are examples of existing research showing the important economic contributions that workers with temporary immigration protections and EADs are able to make thanks to being work-authorized. These estimates are relevant because parole, TPS, and DACA recipients are likely to see similar wage gains associated with having an EAD, due to gaining the ability to work lawfully, which brings with it the practical ability to enforce workplace rights and standards. In addition, many persons with protections like TPS and DACA may also be asylum applicants.

One estimate from the American Immigration Council estimated that when the TPS population was approximately 354,000 in 2021, “TPS holders contributed more than \$2.2 billion in taxes, including almost \$1 billion to state and local governments,” as well as “held \$8 billion in spending power.”⁴ Another estimate by Moriarty found that TPS-eligible individuals “annually contribute some \$31 billion in wages to the national GDP.”⁵

Research has also quantified some of the contributions made by persons who have an EAD because they qualified for Deferred Action for Childhood Arrivals (DACA). DACA was created by DHS in 2012, and recipients are eligible for protections from deportation and EADs that are valid for two years and renewable. More than 835,000 persons have benefitted from DACA, and more than 500,000 were enrolled as of 2024.⁶ Svajlenka and Truong found that DACA recipient households “pay \$6.2 billion in federal taxes and \$3.3 billion in state and local taxes each year,” and “after taxes, these households hold \$25.3 billion in spending power,” and that DACA recipient families “own 68,000 homes, making \$760 million in mortgage payments and \$2.5 billion in rental payments annually.”⁷

When it comes to measuring the workplace impact and economic benefits of workers being issued an EAD, there are a few examples that are worth citing here. One is an annual survey of DACA recipients that was conducted in 2024 for the ninth time. The most recent survey, conducted by Wong et al. and published by the Center for American Progress, showed that DACA has been an essential tool to improve the economic and educational outcomes of recipients.⁸ In terms of the impact that deferred action and an EAD have had on the employment of DACA recipients: 59.1% of respondents moved to a job with better pay; 47.3% moved to a job with better working conditions; 47.5% moved to a job that “better fits [their] education and training”; 49.6% moved to a job that “better fits [their] long-term career goals”; 57.3% moved to a job with health insurance or other benefits; and 19.6% of respondents obtained professional licenses.

Wong et al. also measured the impact of EADs on DACA recipients' wages, finding that "[d]ata from the past nine years show that DACA has had a significant and positive effect on wages: Recipients' average hourly wage more than doubled from \$11.92 to \$31.52 per hour—an increase of 164.4 percent—after receiving DACA." These significant wage increases are no doubt a result of the labor and workplace rights and stability that DACA recipients gain from having an EAD.

Orrenius and Zavodny examined the wage and employment impact of TPS⁹—which allows those who are eligible to also be granted an EAD. They looked specifically at migrants from El Salvador, finding that having TPS increased employment rates, and that less-educated Salvadoran men who were employed earned 13% more if they had TPS. They note that "As a whole, the results suggest that less-educated Salvadoran men who receive TPS are able to move into better jobs and become more selective about the jobs they hold, increasing their earnings but also their job search and unemployment incidence."

One other analysis comes from Kallick,¹⁰ looking specifically at asylum-seekers in New York and nationwide, assesses the wage impact of being issued an EAD. Relying on previous methodologies for measuring the impact of a lawful immigration status being granted to unauthorized immigrants, Kallick estimates that asylum-seekers who are granted EADs increase their wages by 10%.

While the relative benefits of precarious and temporary immigration protections and EADs to migrant workers and the broader economy are clear, it is important to note here that because of the NPRM's new provisions and pauses in processing, a significant share of the 2 million EADs held by asylum-seekers are unlikely to be renewed, or at a minimum, will be substantially delayed—and initial applications will not be granted—despite meeting the statutory requirements for issuance. This violates the statute and will leave hundreds of thousands of workers at least, and possibly millions, unemployed and without the ability to feed and house themselves, causing them to rely on homeless shelters and food banks, which are already overstretched given the current state of the economy and the affordability crisis. Thus, DHS through this NPRM will intentionally hurt the economy and eliminate the economic benefits for workers and employers that EADs held by asylum-seekers create—and exacerbate a crisis among social safety net providers—a fact that the NPRM does not grapple with or address.

In the meantime, EADs obtained through the asylum process, like those obtained through TPS, parole, and DACA, can mean the difference between having rights on the job or being extraordinarily vulnerable to the worst abuses by employers. While the current administration has claimed they want to help U.S. workers, actions like the mass detention and deportation of millions of workers and canceling EADs reveal they are willing to degrade conditions and standards for all workers, as well as kill jobs and shrink the economy, in order to carry out their extreme immigration enforcement agenda.¹¹

If the NPRM is not withdrawn, millions of workers will be more easily exploited by their bosses and driven into the informal economy. That, in turn, will reduce their tax contributions that support the social safety net and lower their wages significantly¹²—ultimately hurting U.S. workers in low-wage industries and the U.S.

economy writ large by driving down demand for goods and services. It will also leave employers without millions of reliable employees in industries like construction, hospitality, childcare, agriculture, food processing and production, and more.

The NPRM underestimates the economic harm to initial asylum applicants who are already employed in the U.S. workforce

The NPRM rests heavily on the premise that restricting access to asylum-based work authorization will deter future asylum applicants by reducing the perceived “pull factor” of employment opportunities in the United States given the lengthy asylum backlog.¹³ While briefly referenced above, it is worth highlighting that this premise overlooks that many “initial” asylum employment authorization applicants are workers who are already here, including many who are gainfully employed.

Since January 2025, the federal government has terminated or moved to dismantle legal immigration programs that provided work authorization to hundreds of thousands of individuals, including several countries’ TPS designations, the CBP One parole program, the parole program for Cubans, Haitians, Nicaraguans, and Venezuelans (CHNV), multiple family reunification parole programs, and DACA.¹⁴ Many workers whose work permits have been terminated or threatened by these changes—and who are also eligible for asylum—are filing asylum applications and seeking initial employment authorization based on their pending applications.

The NPRM acknowledges this trend in passing,¹⁵ but largely sidesteps its implications—namely, that the NPRM’s sweeping restrictions on employment authorization for “initial asylum applicants” will largely fall on individuals who are already integrated into the lawful workforce. These workers are not hypothetical future entrants; they are experienced employees currently working in hospitals, manufacturing facilities, construction sites, hotels, schools, and public services. The NPRM therefore risks removing from the workforce hundreds of thousands of workers who have already been performing essential roles in the U.S. economy.

By focusing on speculative deterrence effects for future migrants while overlooking the proposed rule’s immediate impact on workers already embedded in the U.S. economy, the NPRM fails to accurately assess the scope of the disruption the proposed rule would cause. This flawed premise permeates the NPRM’s analysis and projected impacts and, on its own, warrants withdrawal of the proposed rule.

The NPRM incorrectly assumes that

asylum-seekers who lose employment authorization can easily be replaced and ignores the resulting disruption to the economy

The NPRM suggests that asylum-seeking workers who lose employment authorization may be replaced and that the resulting shifts may lead to increased hours or compensation for currently employed workers.¹⁶ Although the NPRM acknowledges that restrictions on asylum-based employment authorization may lead employers to rely more heavily on currently employed workers through increased hours or overtime, it largely treats these effects as a potential transfer of compensation rather than as a source of workforce disruption.¹⁷ These assumptions simply do not reflect the realities in which many asylum applicants work.

A) The NPRM would shrink the legal workforce, exacerbating staffing issues in key industries

Asylum applicants are employed in a number of key industries, such as construction, transportation, manufacturing, food preparation and service, and building and grounds maintenance.¹⁸ Employers in sectors such as health care, long-term care, hospitality, education, and logistics frequently report difficulty recruiting and retaining sufficient numbers of workers.¹⁹ In these and other industries, the loss of experienced workers cannot easily be offset by replacement hiring. This is the case, in part, because of the Trump administration's immigration enforcement policies, which are resulting in stagnant population and workforce growth, leaving fewer available workers to fill positions previously held by asylum-seekers.²⁰

The NPRM as a result will exacerbate staffing issues in key industries, by pausing, terminating, or simply not adjudicating EAD applications. Further, the NPRM provides no empirical analysis demonstrating that employers will be able to replace workers who lose asylum-based employment authorization. Instead, the proposed rule rests on speculative assumptions that are inconsistent with the experience of the industries most affected.

B) The NPRM would increase mandatory overtime and workload pressures on remaining workers

Across unionized industries, abrupt workforce losses rarely produce the seamless labor substitution envisioned in the NPRM. Instead, employers often struggle to recruit qualified replacements, leaving operations understaffed for extended periods. In some cases, employers may scale back operations or lay off additional workers when they can no longer meet production or service demands due to the loss of experienced personnel.²¹ These dynamics are particularly severe in rural areas and specialized industries where the available labor pool is already limited and recruiting new workers can take months or even

years.

When employers cannot quickly replace lost staff, the burden falls on the remaining workforce. Workers may be required to work extended shifts, mandatory overtime, or intensified production schedules to maintain operations. These conditions increase worker fatigue and place significant strain on the remaining workforce.²²

C) The NPRM would increase workplace safety risks by disrupting experienced workforces

Staffing shortages and excessive overtime can also create significant safety risks. In many safety-sensitive workplaces, such as construction sites, manufacturing facilities, warehouses, and healthcare settings, the sudden loss of experienced workers can create immediate hazards for the remaining workforce. Short-staffing often forces employees to perform additional tasks or work at faster production speeds, increasing the likelihood of fatigue-related injuries and other workplace incidents. Efforts to rapidly replace experienced workers with new or inexperienced hires can further heighten safety risks for the entire workforce. Unionized workplaces have reported increased injury rates, higher stress levels, and exacerbated turnover and burnout following sudden staffing reductions tied to immigration policy changes.²³

D) The NPRM would weaken bargaining power in unions and organizing capacity

Many asylum-seekers and other immigrant workers are union members, and their ability to work lawfully is critical to the stability of union bargaining units. By severely restricting asylum-seekers' access to employment authorization, the NPRM would harm not only individual workers but also the unions that represent them by disrupting membership, weakening collective representation, and undermining unions' capacity to maintain stable bargaining relationships with employers.

Labor history and modern labor-market research confirm the central role immigrant workers play in sectors where unions organize and represent workers.²⁴ Immigrant workers are disproportionately employed in high-turnover, demanding industries where unions depend on workforce stability to sustain membership and bargaining strength.²⁵ As immigrant employment has grown, so too has immigrants' share of union membership, making them an increasingly important source of union participation and organizing.

By sharply curtailing asylum-seekers' access to employment authorization, the NPRM would destabilize the workforce in industries where unions are building and maintaining collective representation. Denying or delaying work authorization would force many workers out of lawful employment or prevent workers from entering lawful employment relationships and joining unions, weakening existing bargaining units and reducing unions' membership base. It would also disrupt organizing efforts by removing workers from the workforce before they can participate in union campaigns or collective bargaining.

The NPRM's restrictions on asylum-seekers' work authorization would significantly impair unions' ability to represent and grow their membership.

The NPRM would push workers into the underground economy, increase labor and employment violations, weaken labor standards enforcement, and lower wages in numerous industries

The proposed rule would significantly restrict asylum-seekers' ability to work legally while their asylum claims—often pending for years—are adjudicated, effectively forcing many asylum-seekers to support themselves and their families for extended periods of time without lawful employment.

The NPRM does not meaningfully analyze how individuals in this situation are expected to sustain themselves during those years, nor how effectively eliminating asylum-seekers' access to employment authorization will impact the enforcement of labor standards, including wage and hour laws, labor laws, and workplace safety laws. In practice, without work authorization, many people will turn to informal or off-the-books employment arrangements in order to support themselves and their families. And we know from existing research that employees who lack work authorization are more than twice as likely to be victims of wage theft for minimum wage violations than U.S.-born citizens.²⁶ Workers in these circumstances are significantly more vulnerable to exploitation. Employers may take advantage of workers' immigration status to suppress wages, deny overtime pay, ignore workplace safety standards, or retaliate against workers who attempt to assert their rights.

When workers are pushed into informal employment, the resulting labor violations extend beyond those workers themselves—to all workers—regardless of immigration status or the country where they were born. Employers who exploit vulnerable workers not only depress wages and benefits for authorized workers in the same workplace, but they also gain a competitive advantage over law-abiding employers that comply with labor laws and collective bargaining agreements.²⁷ In this way, the NPRM's restriction of lawful employment authorization would distort workplace competition by rewarding employers that exploit vulnerable workers while disadvantaging those that comply with labor laws and collective bargaining agreements, thus lowering wages for all workers in the many industries where asylum-seekers are employed.

These consequences would reverberate across workplaces and industries. When employment moves into the informal economy, labor violations become harder to detect and enforce, enabling exploitative employers to undercut law-abiding competitors and

driving down wages and working conditions for other workers. The NPRM does not meaningfully analyze these foreseeable effects. By failing to account for the predictable expansion of informal employment created by the proposed rule, the NPRM substantially understates its impact on labor standards and the broader labor market.

The NPRM disregards the significant reliance interests created by the existing system of asylum-based employment authorization

Under the Administrative Procedure Act (APA), agencies must consider the reliance interests that regulated parties have developed under existing policies before adopting regulatory changes that would disrupt those settled expectations.²⁸ The NPRM fails to meaningfully account for the reliance interests that workers and unions have developed around the current system of asylum-based employment authorization.

For years, asylum-seekers and labor organizations have relied on a predictable regulatory framework under which individuals who meet the criteria for employment authorization can obtain a work permit within a defined timeframe. Workers make critical life decisions—including housing, transportation, and family support—based on the expectation that, if they satisfy the applicable requirements, they will be able to work lawfully while their asylum claims are pending. By introducing sweeping delays, additional eligibility barriers, and broad discretionary authority to deny applications, the proposed rule would upend these settled expectations and inject profound uncertainty into a system on which workers have long depended.

These reliance interests are particularly significant because many individuals the NPRM characterizes as “initial” asylum employment authorization applicants are not new entrants to the labor market. As described above, many have already been participating in the lawful workforce through programs such as TPS, humanitarian parole, deferred action, or other programs that allow for employment authorization. When those programs are terminated or curtailed, many workers eligible for asylum turn to the asylum system in order to maintain lawful employment authorization—relying on claims for asylum that are almost certainly valid given the circumstances that allowed them to qualify for temporary protections like TPS and parole—but which they did not assert sooner because of their eligibility for other programs which could be approved more quickly. Closing off this pathway for these current lawful employees in the U.S. labor market who also have valid asylum claims will eliminate the only remaining pathway for them to continue working lawfully in jobs they already hold. Their coworkers, employers, and entire workplaces depend on their continued participation in the labor force.

By imposing new eligibility barriers and expanding the circumstances under which renewal applications may be denied, along with creating unjustified lengthy bureaucratic pauses in

adjudication, the proposed rule would significantly slow the renewal process and increase the likelihood that workers will lose lawful employment authorization while their applications remain pending. Given the scale of the existing asylum backlog, these changes threaten to create widespread gaps in work authorization for workers who have already been lawfully employed for years.

The NPRM would bring the asylum-based employment authorization system to a functional standstill. Workers who have relied on timely adjudication of work authorization applications would face prolonged periods without lawful employment authorization, while co-workers who depend on those workers would face sudden and unpredictable staffing disruptions. The NPRM does not meaningfully engage with these reliance interests or the systemic consequences of destabilizing an employment authorization framework on which hundreds of thousands of workers and employers have come to depend.

Because the proposed rule disregards these substantial reliance interests and fails to evaluate the disruptive consequences of overturning longstanding expectations about the availability and timing of employment authorization, the NPRM fails to consider an important aspect of the problem before the agency.

Conclusion and recommended action

The NPRM rests on a chain of flawed assumptions that do not reflect the realities of the modern U.S. labor market. It ignores the positive economic benefits and value of Employment Authorization Documents for asylum-seekers, and fails to estimate the many negative impacts that will result, harming not only asylum-seekers, but also U.S. employers and U.S.-born citizen workers. It mischaracterizes who will be impacted by the proposed rule, failing to recognize that many “initial” asylum applicants who would face the harshest aspects of the proposed rule are already embedded in the workforce. It disregards the substantial reliance interests that workers and employers have developed around a predictable system of asylum-based employment authorization. It ignores the predictable expansion of informal employment that will result from leaving asylum-seekers without lawful means of supporting themselves for years. And it assumes—without evidence—that employers will be able to easily replace workers who lose employment authorization.

In practice, the proposed rule would not streamline the administration of asylum-based employment authorization. Instead, it would destabilize workplaces, disrupt established workforces, weaken labor standards enforcement—leading to lower wages for workers in many industries—and impose significant costs on workers, employers, and the broader labor market.

For these reasons, the Economic Policy Institute urges DHS to withdraw the proposed rule.

Comment submitted by:

Daniel Costa
Director of Immigration Law and Policy Research

Endnotes

1. See *Employment Authorization Reform for Asylum Applicants*, 91 Fed. Reg. 8616, 8618–20 (Feb. 23, 2026).
2. See *id.* at 8618–19.
3. Daniel Costa, Josh Bivens, Ben Zipperer, and Monique Morrissey, *The U.S. benefits from immigration but policy reforms needed to maximize gains: Recommendations and a review of key issues to ensure fair wages and labor standards for all workers*, Economic Policy Institute, October 4, 2024.
4. American Immigration Council, *The Contributions of Temporary Protected Status Holders to the U.S. Economy* (fact sheet), September 19, 2023.
5. Andrew Moriarty, “Temporary Protected Status (TPS): 5 Things to Know,” Policy Brief, FWD.US, February 29, 2024.
6. President’s Alliance on Higher Education and Immigration (President’s Alliance), *Breakdown of Dreamer Populations—Both with and Without DACA*, Updated May 23, 2024.
7. , Nicole Svajlenka and Trinh Q. Truong, “The Demographic and Economic Impacts of DACA Recipients: Fall 2021 Edition,” Center for American Progress, November 24, 2021.
8. Tom Wong, Ignacia Rodriguez Kmec, Diana Pliego, Karen Fierro Ruiz, Silva Mathema, Trinh Q. Truong, and Rosa Barrientos-Ferrer, *2023 Survey of DACA Recipients Highlights Economic Advancement, Continued Uncertainty amid Legal Limbo*, Center for American Progress, March 25, 2024.
9. Pia Orrenius and Madeline Zavodny, “The Impact of Temporary Protected Status on Immigrants’ Labor Market Outcomes,” Federal Reserve Bank of Dallas Working Paper no. 1415, December 2014.
10. David Dyssegaard Kallick, “‘Let Us Work’: The Wage Gain When Asylum Seekers Gain Work Authorization,” Immigration Research Initiative, September 7, 2023.
11. See for example, Ben Zipperer, *Trump’s deportation agenda will destroy millions of jobs: Both immigrants and U.S.-born workers would suffer job losses, particularly in construction and child care*, Economic Policy Institute, July 10, 2025.
12. See for example, Carl Davis, Marco Guzman, and Emma Sifre. 2024. *Tax Payments by Undocumented Immigrants*, Institute on Taxation and Economic Policy, July 30, 2024.
13. This rationale—the validity of which is beyond the scope of this comment—is repeated throughout the NPRM. See, e.g., *Employment Authorization Reform for Asylum Applicants*, Notice of Proposed Rulemaking, 91 Fed. Reg. 8616, 8620 (Feb. 23, 2026) (“[T]he affirmative asylum application backlog serves as a magnet pulling aliens into the U.S. illegally.”); *id.* at 8664 (same); *id.* at 8629 (“filing fraudulent, frivolous, or otherwise meritless asylum cases primarily to access employment authorization” is a “pull factor for illegal immigration,” such that the NPRM “should decrease the number of illegal border crossers”); *id.* at 8659 (proposing new eligibility bar on asylum-based work permits to “curb the pull-factor of employment authorization for those who

have been present in the United States for more than 1 year”); *id.* at 8660 (“This rule will prioritize the safety and security of the American people by disincentivizing illegal migration and criminal conduct for [sic] aliens who would like to obtain employment authorization.”); *id.* at 8669 (“tethering (c)(8) EAD application acceptance to asylum processing times . . . will permanently eliminate the possibility that asylum backlogs may serve as a magnet attracting illegal immigration”).

14. See *Temporary Protected Status (TPS): Fact Sheet*, Forum (Feb. 4, 2026), <https://forumtogether.org/article/temporary-protected-status-fact-sheet/> (listing recent TPS termination announcements, including TPS protections for Venezuela, Haiti, Nepal, Honduras, Nicaragua, Syria, Afghanistan, Cameroon, South Sudan, Burma, Ethiopia, Somalia, and Yemen); Dep’t of Homeland Sec., *DHS Issues Notices of Termination for the CHNV Parole Program, Encourages Parolees to Self-Deport Immediately* (June 12, 2025), <https://www.dhs.gov/news/2025/06/12/dhs-issues-notices-termination-chnv-parole-program-encourages-parolees-self-deport>; U.S. Citizenship & Immigr. Servs., *Termination of Family Reunification Parole Processes for Colombians, Cubans, Ecuadorians, Guatemalans, Haitians, Hondurans, and Salvadorans*, 90 Fed. Reg. 58032 (Dec. 15, 2025); Gregory Royal Pratt & Laura Rodríguez Presa, *DACA delays lead to lost jobs, less stability and anxiety over potential deportation under Donald Trump*, Chicago Tribune (Mar. 15, 2026), <https://www.chicagotribune.com/2026/03/15/daca-delays-trump-immigration/>.
15. See 91 Fed. Reg. at 8652-53, 8658 (acknowledging former TPS, parole, and DACA holders often apply for asylum).
16. 91 Fed. Reg. at 8620–21, 8664-65.
17. See *id.* (noting that lost compensation may be transferred to currently employed workers through additional hours or overtime).
18. See, e.g., fwd.us, *People seeking asylum are contributing to the workforce* (Jan. 31, 2026), <https://www.fwd.us/news/people-seeking-asylum-are-contributing-to-the-workforce/>.
19. See, e.g., Brief of Amici Curiae AFL-CIO and Ten Affiliated Labor Unions, *Lesly Miot v. Trump*, No. 26-5050 (D.C. Cir. Feb. 17, 2026) (“AFL-CIO and Affiliated Labor Unions Haiti TPS Brief”), at 16–17.
20. See, e.g., Julia Gelatt, “Trump Restrictions on Legal Immigration Could Sharply Reduce U.S. Population Growth,” Migration Policy Institute (April 2026), <https://www.migrationpolicy.org/news/trump-legal-immigration-cuts-us-population-growth>; and Chair Jerome Powell, “Transcript of Chair Powell’s Press Conference, March 18, 2026,” Federal Reserve, <https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20260318.pdf> (March 18, 2026).
21. See, e.g., Brief of Amici Curiae AFL-CIO and Affiliated Labor Unions, *Svitlana Doe et al. v. Noem et al.*, No. 25-1384 (1st Cir. July 7, 2025) (“AFL-CIO and Affiliated Labor Unions Parole Brief”), at 13.
22. See, e.g., *id.* at 8–17 (discussing the chaos and harmful fallout that union members and employers experienced when DHS abruptly ended work authorization through the CHNV parole program); Andrea Hsu, *Factories from GE to Kraft Heinz lose immigrant workers, stressing those who remain*, NPR (Aug. 11, 2025), <https://www.npr.org/2025/08/11/nx-s1-5496335/trump-immigration-workers-parole-tps>.
23. See, e.g., AFL-CIO and Affiliated Labor Unions Haiti TPS Brief at 36 (noting that “[a]s a direct result of DHS’s actions [in terminating TPS for Haiti], nurses and other healthcare workers will feel pressure to work longer hours to attend to more patients, exacerbating the turnover and burnout that is endemic to the industry”).

24. See, e.g., Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (2004) (discussing historical links between immigrant labor and industrial unionization); Joint Econ. Comm. of the U.S. Cong., *Unions Protect Employment and Raise Earnings, Including for Workers Who Are Immigrants* (June 14, 2023) (finding unionization increases wages, benefits access, and workplace protections for immigrant workers); Andrea Hsu, *Factories from GE to Kraft Heinz lose immigrant workers, stressing those who remain*, NPR (Aug. 11, 2025), <https://www.npr.org/2025/08/11/nx-s1-5496335/trump-immigration-workers-parole-tps>.
25. See, e.g., Kevin Appleby, *The Importance of Immigrant Labor to the US Economy*, Center for Migration Studies (Sept. 2, 2024), <https://cmsny.org/importance-of-immigrant-labor-to-us-economy/> (noting foreign-born workers were mainly employed in service occupations, construction, transportation, and material moving occupations); Dorothy Neufeld, *Ranked: Union Membership by Industry in America*, Visual Capitalist (Nov. 7, 2024), <https://www.visualcapitalist.com/union-membership-by-industry-in-america/> (listing top industries with union membership based on Department of Labor statistics, including construction and transportation); Migration Policy Institute, *Immigrants and Union Membership in the United States* (2004) (demonstrating rising absolute numbers of immigrant workers in unions despite lower overall union density among foreign-born workers).
26. Annette Bernhardt et al., *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*, Center for Urban Economic Development, National Employment Law Project, and UCLA Institute for Research on Labor and Employment, 2009.
27. See, e.g., AFL-CIO and Affiliated Labor Unions Parole Brief at 15–16 (when the hotel industry is faced with labor shortages, employers often use temporary labor agencies to supply workers, which not only “undermin[e] the wages and working conditions” for U.S. citizen workers employed by the hotel “by paying substandard wages and benefits,” but also “often violate immigration law by hiring undocumented workers”).
28. See *FCC v. Fox Television Studios, Inc.*, 556 U.S. 502, 515–16 (2009) (noting that an agency must sufficiently explain its decision when it departs from a previous position, which requires a “reasoned explanation” as to why it is “disregarding” any “factual findings . . . which underlay its prior policy” and “contradict” the factual findings underlying its new policy).
1. The proposed rule includes multiple reference numbers, which are listed here out of an abundance of caution: No. 2799-25; DHS Docket No. USCIS-2025-0370; DHS Docket No. 2025-0370; and RIN 1615-AC97.