



# Employer I-9 Work Authorization Compliance Guidance Following Termination of Most EAD Auto Extension Categories

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# Agenda

- The 540-Day EAD Auto Extension Rule and Its Significance for I-9 Compliance
- DHS Termination of the 540-Day EAD Auto Extension Rule on October 30, 2025: Scope and Impact
- New Compliance Burdens: E-Verify and Non-E-verify Employers
- Best Practices in the Current Environment

# The 540-Day Automatic Extension Rule

The 540-Day Employment Authorization Document (EAD) Auto Extension Rule provides employers with a specific timeframe during which employees with pending EAD renewal applications may continue working. This rule is critical for I-9 compliance, as it allows employers to accept an expired EAD along with a Form I-797C receipt notice as evidence of continued work authorization for up to 540 days.

# DHS Termination of the 540-Day EAD Auto Extension Rule on October 30, 2025: Scope and Impact

The Department of Homeland Security (DHS) terminated the 540-Day EAD Auto Extension Rule effective October 30, 2025. The end of this policy means that employers must no longer rely on the extended period when reverifying work authorization. The scope of this change affects employees who previously benefited from the auto extension, as their continued employment will depend on timely EAD renewal.



# EAD Holders Not Impacted by Termination of the 540-Day Auto Extension Rule

Employees whose Form I-797C Notice of Action shows an extension application "Received Date" earlier than October 30, 2025.

TPS EAD holders (A12 and C19) whose Form I-797C has a "Received Date" on or after May 4, 2022, or before May 4, 2022, with the Form I-765 renewal still pending as of that date.

Employees covered under other EAD extensions provided by law, such as the Optional Practical Training extension for science, technology, engineering, and mathematics students (STEM-OPT) or the F-1 to H-1B cap-gap.

# Actual vs. Constructive Knowledge

Employers face civil and criminal penalties if they know or should have known an employee is not authorized to work under DHS regulations.

An employer has Actual Knowledge if an employee admits to being unauthorized or if the government notifies the employer of the employee's status.

Constructive Knowledge occurs when a reasonable employer should know an employee is unauthorized. Examples include: ignoring Form I-9 expiration dates, getting DHS E-Verify Status Change notifications, or accepting inconsistent or suspicious documents.

# Expanded I-9 Compliance Obligations for E-Verify Employers to Avoid Potential Liability

E-Verify may notify you if an employee's Employment Authorization Document (EAD) is revoked by DHS.

Since revoked EADs don't appear in Case Alerts, regularly run the Status Change Report by logging into your E-Verify account and selecting it under the "Reports" tab.

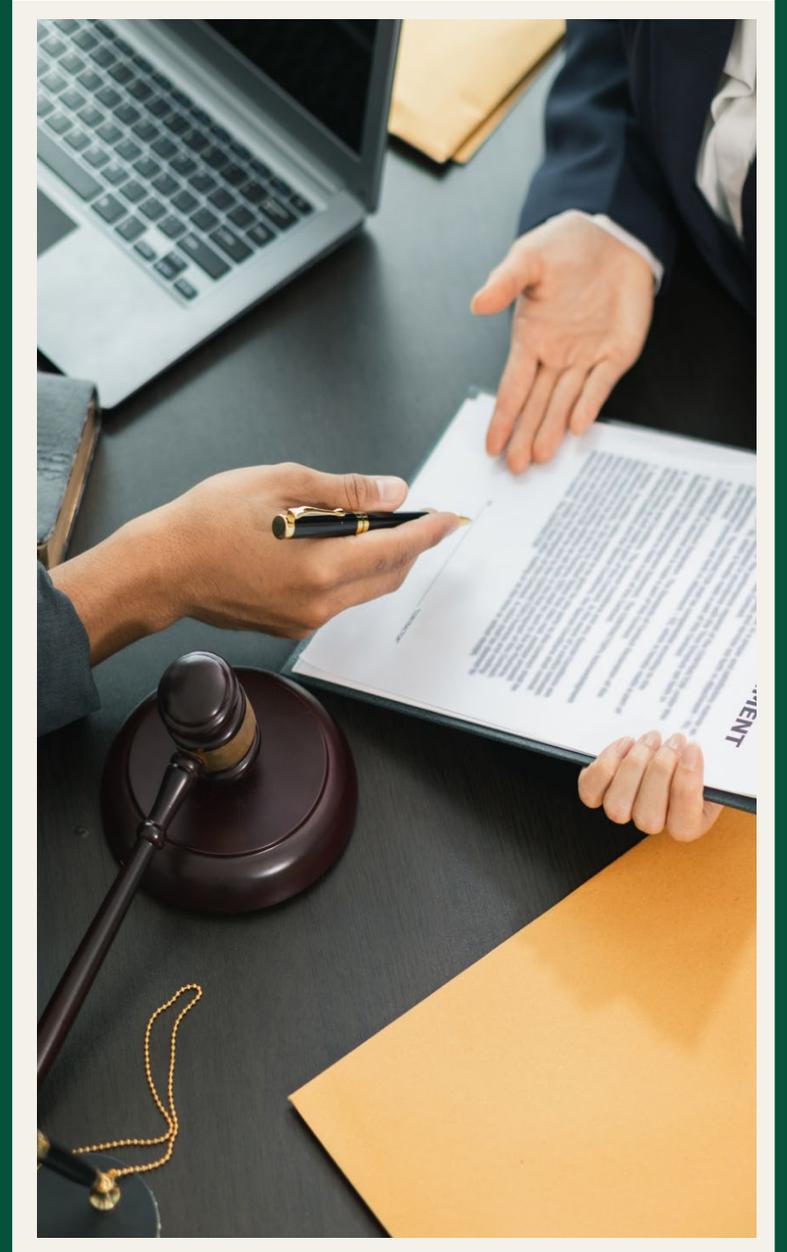
Employer Agents can generate this report for clients via the E-Verify browser. The report shows revocation dates and data update times.

# Using the E-Verify Status Change Report

When a current employee is listed on the Status Change Report, the EAD card number shown for Form I-9 should be compared with the revoked document number in the report. If these numbers correspond, employment authorization must be reverified.

E-Verify employers must use Form I-9, Supplement B to promptly reverify any current employee whose EAD is shown as revoked in the Status Change Report or who discloses their EAD has been revoked. Complete reverifications within a reasonable timeframe.

If you have recently reverified an individual listed in the report and the employee presented a List A or C document other than the revoked EAD that demonstrates continued employment authorization, do not reverify the employee again until their employment authorization expires.



# Best Practices for E-Verify Employers

01

**Run the Status Change Report Regularly:** While DHS has not defined “regular,” employers should adopt a documented internal review schedule—daily, weekly, or monthly depending on the business size and risk.

02

**Reverify Promptly:** Use Form I-9 Supplement B to reverify affected employees. Follow company policy or work with legal counsel to create a protocol if one does not exist.

03

**Protect Employee Privacy:** Handle A-Number data with strict confidentiality using secure systems, as required by data privacy laws.

# Best Practices for Non-E-Verify Employers

**Monitor Internal Records:** Since non-E-Verify employers do not receive DHS status reports, create a data base of EAD List A and Supplement B users and document EAD category and expiration dates.

**Stay Informed:** Regularly review the DHS EAD Revocation Guidance webpage and USCIS updates.

If you have recently reverified an individual listed on the report, and the employee presented any List A or C document other than the revoked EAD that shows they continue to have employment authorization, then do not reverify the employee again until their employment authorization expires.

# Monitoring Internal Employment Authorization Records

Non-E-Verify employers do not receive Department of Homeland Security (DHS) status reports regarding employee work authorization. To ensure compliance and maintain up-to-date records, it is essential to create and maintain an internal database.

Track all employees who provide an Employment Authorization Document (EAD) as a List A document, as well as those for whom Supplement B applies.

For each individual in the database, record the specific EAD category and the document's expiration date.

This process will help the organization proactively monitor work authorization status and remain compliant with employment verification requirements.

# Overall Best Practices

**Set Clear Policies:** Update E-Verify, rehire, and documentation procedures.

**Maintain Comprehensive Documentation:** Systematically retain all records related to compliance activities, including generated reports, employee reverification statuses, and communication logs.

**Train HR staff:** Educate them on current Form I-9 rules and reverification steps.



**Questions?**

