

# PUBLICATION

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## Immigration Update: E-Verify Makes History; Help with Hardship Waivers

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### *E-Verify Historic Records Report*

How long have you been using E-Verify? United States Citizenship and Immigration Services (USCIS) announced that effective January 1, 2016, all E-Verify transaction records that are more than ten years old will be deleted from the system to comply with the National Archives and Records Administration's retention and disposal schedule.

If you have been using E-Verify for more than 10 years and want access to a record of all cases created prior to December 31, 2005, you can (and should) download the newly created Historic Records Report without delay. The report and instructions for download are available for users once logged in to E-Verify. **The Historic Records Report will only be available until December 31, 2015**, and will be long-time users' only means of accessing all transaction records for cases more than ten years old. This newly implemented deletion schedule is a permanent change and will continue annually. Each year going forward, employers will be advised when the new Historic Records Report is available for download.

### *USCIS Issues Draft Guidance on Hardship Waivers*

On October 7, 2015, USCIS published a draft of the extreme hardship guidance for public comment, with final guidance expected by November 23, 2015. This comprehensive guidance will be invaluable to those individuals seeking discretionary waivers of inadmissibility by showing "extreme hardship" to "qualifying relatives" (certain U.S. citizen or lawful permanent resident family members of the applicant). These waivers are applicable only to waive a limited number of the designated inadmissibility grounds, which are detailed in Chapter 1 of the draft guidance. The guidance as drafted is user friendly and comprehensive, with illustrative hypotheticals describing factors that could change a deniable case to one warranting approval, step-by-step discussion of the adjudication process, analytical and discretionary considerations for the adjudicating officer, the ultimate burden of proof and guidance for establishing a qualifying relative, and it includes a detailed chart with a non-exclusive listing of various factors and relevant considerations for establishing "extreme hardship."

Once made final, this guidance will serve as a useful tool for individuals considering this complicated and evolving process for overcoming inadmissibility.