

Blog Post

Immigration Enforcement and Deadlines: A Pause for Disasters

September 19, 2017

U.S. Immigration and Customs Enforcement has put a hold on immigration enforcement operations in areas affected by Hurricanes Harvey and Irma. Routine non-criminal immigration enforcement operations will not be conducted at evacuation sites, or assistance centers such as shelters or food banks, according to a [joint announcement](#) issued by ICE and US Customs and Border Protection in connection with Hurricane Harvey.

A number of other changes also have been implemented by United States Citizenship and Immigration Services (a division of Homeland Security) to accommodate those affected by the hurricanes. The agency advises that the following measures “may be available on a case-by-case basis”:

- Changing a nonimmigrant status or extending a nonimmigrant stay for an individual currently in the United States. Failure to apply for the extension or change before expiration of your authorized period of admission may be excused if the delay was due to extraordinary circumstances beyond your control;
- Re-parole of individuals previously granted parole by USCIS;
- Expedited processing of advance parole requests;
- Expedited adjudication of requests for off-campus employment authorization for F-1 students

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experiencing severe economic hardship;

- Expedited adjudication of employment authorization applications, where appropriate;
- Consideration of fee waivers due to an inability to pay;
- Assistance for those who received a Request for Evidence or a Notice of Intent to Deny but were unable to submit evidence or otherwise respond in a timely manner;
- Assistance if you were unable to appear for a scheduled interview with USCIS;
- Expedited replacement of lost or damaged immigration or travel documents issued by USCIS, such as a Permanent Resident Card (Green Card); and
- Rescheduling a biometrics appointment.

Individuals wishing to take advantage of any of these measures should be prepared to explain how the hurricane has affected them in ways outside of the individual's control. To learn how to request these measures or determine if an office is open, call the National Customer Service Center at 800-375-5283 (TDD for the deaf and hard of hearing: 800-767-1833) or visit [USCIS Office Closings](#).

Employers of foreign nationals with pending cases in the Office of Foreign Labor Certification should note that the DOL has also established policies to accommodate those affected by the hurricanes, found here:

<https://www.foreignlaborcert.doleta.gov/pdf/FAQ-Guidance-on-Hurricane-Harvey.pdf> Although this guidance applies to those affected by Hurricane Harvey, it is expected that the same will apply to those affected by Irma.

With respect to foreign employees travelling internationally, employers should encourage any employees with damaged passports due to the hurricanes to renew their passports before they travel internationally. The ink used for visas and

most passports is not waterproof and the passport may not be machine readable. There is very little room for discretion for those entering by air, as the airlines will likely deny boarding before the Customs and Border Protection ever sees the applicant. However, employees who seek reentry by land may have more latitude, as they may request a waiver of the required entry document. These waivers are granted on a case-by-case basis at the discretion of the port, and there is no guarantee one will be granted in any particular case. In cases that merit favorable discretion (e.g., emergency travel due to hardship), employers may facilitate the process by having the client return to the United States through a land border port of entry and have their attorney contact that port in advance of the employee's reentry to discuss the case and explain why it merits an I-193 waiver approval. Ports do not guarantee that the employee will be cleared for entry, but entry may be facilitated by making this type of inquiry in advance. The I-193 waives only the lack of a travel document and does not waive any other grounds of inadmissibility that would require a waiver under INA 212(d)(3), so the case must be scrutinized carefully by the attorney before the employee travels outside the United States.

Any employer who has an employee who will be processing a visa with a U. S. Consulate abroad that was in the path of a hurricane should check the Consulate's website to ensure that the Consulate is open.

A word of caution for Harvey victims: ICE is warning Houston area residents to be wary of imposters posing as Homeland Security agents, knocking on doors and telling residents to evacuate, presumably so they can thereafter steal from the vacant homes.

Employers should note that all Form I-9, Employment Eligibility Verification, requirements remain in place. Those affected by the hurricanes should review Form I-9 acceptable documents and receipts for more information on how to complete

the Form I-9 if an employee's documents are lost, stolen, or damaged. Visit [I-9 Central](#) for more information.

Akerman's immigration team is available to assist employers with these and other immigration issues.

This information is intended to inform clients and friends about legal developments, including recent decisions of various courts and administrative bodies. This should not be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this email without seeking the advice of legal counsel.