



Immigration Highlights from the “Spring” Unified Agenda of Regulatory and Deregulatory Actions

On immigration, it is key to note that the Trump Administration has stated in the past that in order for a regulation to move forward, it must be on the regulatory agenda. Many members have been clear that their companies/associations are concerned about what the Trump Administration may seek to do in rolling back the STEM OPT Extension rule or the H-4 Work Authorization rule. As such, it is important to note that **neither of these proposals** are on the regulatory agenda update list, nor are these proposals on the DHS long-term actions list. Key rules that were listed on the regulatory agenda are as follows:

- **Updates to the EB-5 Program** – On January 13, 2017, the Department of Homeland Security (DHS) proposed to amend its regulations governing the employment-based, fifth preference (EB-5) immigrant investor classification. This proposal is controversial, particularly for our members. Its proposal to raise the minimum investment levels associated and drastically changing the process of designating targeted employment areas are opposed by many industry stakeholders.

On April 11, 2017, the Chamber submitted comments, objecting to the proposal, which may be accessed here:

https://www.uschamber.com/sites/default/files/final_uscc_eb5_nprm_comment_4-11-2017.pdf

The 2017 update indicates that USCIS plans to publish a final rule, April, 2018. The Chamber believes that DHS likely set this April date in the regulatory agenda to provide stakeholders and members of Congress the political space necessary to negotiate a legislative package to reform the EB-5 Regional Center Program

- **International Entrepreneur** – On January 17, 2017, USCIS promulgated final regulations establish a program that allows consideration for parole into the U.S. on a case-by-case basis for certain entrepreneurs. The Chamber submitted comments that acknowledged the value in providing more legal avenues for entrepreneurs to come to the U.S., but was critical of the means that DHS sought to employ in that endeavor. The Chamber’s comments on this proposal may be accessed here:
https://www.uschamber.com/sites/default/files/documents/files/uscc_entrepreneur_comments_final_10-17-16.pdf

The regulatory agenda update indicates that DHS plans to issue a proposed regulation in July, 2017. True to their word, on July 12, 2017, USCIS announced the agency is delaying the effective date until March 14, 2018, and is seeking feedback on this delay of the rule. Comments on this NPRM are due on August 10, 2017.

- **H-2B Visa Cap Relief** – On July 19, 2017, the Department of Homeland Security and Department of Labor jointly promulgated a [temporary regulation](#), authorizing an increase of an additional 15,000 H-2B visas through the end of fiscal year. The Chamber and our allies in the H-2B Workforce Coalition worked very hard to convince the Administration to exercise this authority, as it will provide some relief to many small businesses that are in dire need of workers to meet their seasonal labor demands. The Regulatory Agenda stated that this rule would be issued in July, 2017.
- **Collection of Biometric Data Upon Entry to and Exit From the United States** – Executive Order 13780, “Protecting the Nation from Foreign Terrorist Entry into the United States, requires the Secretary to expedite the completion and implementation of a biometric entry-exit tracking system for all travelers to the United States. Given the Administration’s actions in moving forward with several pilot programs to test multiple technologies to enable biometric exit capability at our nation’s international airports, the Chamber expects that the promulgation of this rule will be a priority of DHS. A proposed rule from Customs and Border Patrol (CBP) to implement this requirement anticipated, October, 2017.
- **Definition of “Recruitment Fees”** – On May 11, 2016, the FAR Council promulgated a proposed rule, requesting comments regarding the definition of the term, “recruitment fees.” On July 11, 2016, the Chamber submitted comments, which are available here: <https://www.uschamber.com/comment/comments-gsa-combating-trafficking-persons-definition-recruitment-fees>

The Chamber is active in promoting best practices to avoid human trafficking and is working to root out both the cause and effects of human trafficking. However, the Chamber is concerned about the creation of potential contractor and subcontractor liability without regard to the realities of global supply chains and various other provisions that complicate employer recruitment processes without a tangible relationship to reducing human trafficking.

The 2017 update published July 20, 2017, indicates that the final regulation is anticipated, September, 2017.