

POLICY MATTERS

PRESENTED BY SEYFARTH'S GOVERNMENT RELATIONS AND POLICY GROUP

May 10, 2018

Trump Administration's Spring Regulatory Agenda Released. On Wednesday, the Trump administration released its [semiannual unified agenda of regulatory and deregulatory actions](#) for the spring. Mapping out what actions federal agencies plan to take in the coming months, the agenda sheds some light on the [administration's upcoming priorities](#).

The [Department of Labor's spring rule list](#) features several significant inclusions from the Wage & Hour division, including updating the "[regular rate](#)" requirements under the Fair Labor Standards Act, delaying a revised [overtime rule proposal](#) until 2019, and reissuing a proposed rule on [tip pooling](#) by August of this year. The [definition of an employer with regard to association health plans](#) is slated for final rule and is expected to be issued this summer by the Employee Benefits Security Administration. The [Equal Employment Opportunity Commission](#) will delay issuing a set of proposed rules to address its regulation of [wellness programs](#) until 2019.

The [Department of Homeland Security's spring agenda](#) includes several items of importance to employers. DHS will issue a set of proposed rules covering the [H-1B visa program](#), revising the definitions of "specialty occupation," "employment," and "employer-employee relationship" to "better protect US workers and wages." In addition, DHS will propose additional requirements to ensure that "appropriate" wages are paid to H-1B visa holders. Further, DHS has issued a [proposal to rescind the H-4 visa](#) which grants employment authorization to the spouses of H-1B visa holders. [Practical training reform](#) with a focus on F and M visas will also be undertaken by the Department.

NLRB Considering Rulemaking on Joint-Employer Standard. In conjunction with the spring regulatory agenda, the [NLRB issued a press release](#) yesterday to announce its intention to address the current joint-employer standard by way of rulemaking. Recently confirmed NLRB Chairman John F. Ring stated that he was "committed to working with [his] colleagues to issue a proposed rule [as soon as possible](#)" in order to address the uncertainty following the Board's decision in February to [vacate the Hy-Brand](#) decision.

See our [One Minute Memo](#) for a closer look at the Board's announcement and its potential actions moving forward.

Discharge Petition Filed in the House to Force DACA Vote. A small group of [House Republicans are trying to force a vote](#) on several proposals aimed at saving the Deferred Action for Childhood Arrivals (DACA) program. Rep. Carlos Curbelo (R-FL) filed a [discharge petition](#) on Wednesday to force a vote on [H. Res. 774](#), the bipartisan "Queen of the Hill" rule which would allow for consideration of four different DACA related proposals. In order for the discharge petition to be executed, it must be signed by a majority of House members—at least 218 members, to be exact. If the entire House Democratic caucus were to sign onto the petition, it would take an additional 25 Republicans to reach that threshold.

As discussed previously in *Policy Matters*, the [Queen of the Hill](#) rule would allow for several measures to be voted on in sequence, with the measure receiving the most votes being adopted. Speaker Ryan is [not in favor of this approach](#) as he does not believe any of the bills up for consideration would be signed into law by President Trump. However, if the discharge petition is successful and a subsequent bill receives a majority of votes for passage in the House, that bill would be adopted and then head to the Senate for consideration.

Earlier today, the Bipartisan Policy Center [hosted a screening](#) on Capitol Hill for “The Rational Middle on Immigration.” [The Rational Middle](#) is creating films that present the facts and frame them with historical context and personal stories to open a path for the public at large to have a civil, solutions-based conversation on immigration. Seyfarth works closely with the Bipartisan Policy Center on immigration related issues.

Sen. Sanders Releases New Labor Bill To Bolster Unions. On Wednesday, Sen. Bernie Sanders (I-VT) introduced [S. 2810](#), a bill that aims to significantly [strengthen the power of labor unions](#) through a series of changes to the National Labor Relations Act.

The main points of the bill would:

1. nullify state right-to-work laws;
2. allow workers to unionize through the “card check” method; and
3. adopt California’s new three-part “ABC test” to define who can be classified as an independent contractor.

While Senator Sanders realizes that the bill has [virtually no chance of becoming law](#) under a Republican administration and Congress, it could be a sign of things to come should the Democrats take back the House or Senate in the midterm elections.

Contingent Worker Report to be Released in Early June. The Bureau of Labor Statistics is preparing to publish its report on contingent workers and alternative employment arrangements on June 7. The report is expected to provide detailed information on the extent of independent contracting. Existing data has thus far failed to document an increase in full-time independent contractors relative to the number of full-time employees. Seyfarth will review the report upon its release as part of our ongoing work focusing on independent contracting and the gig economy.

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Seyfarth Shaw LLP | Policy Matters | May 10, 2018

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