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Headlines:

DOL Unveils New H-2A Proposed Rule – Among other things, the Notice of Proposed Rulemaking would mandate electronic filing of job orders and applications, promote the use of digital signatures, and provide employers with the option of staggering the entry of H-2A workers on a single application.

House Holds Hearing on USCIS Policy Changes, Processing Delays – Witnesses included representatives from USCIS, the American Immigration Lawyers Association, Catholic Legal Immigration Network, the Immigrant Legal Resource Center, and the Center for Immigration Studies. Statements were also submitted by various organizations.

OFLC Announces List of H-2B Applications Selected for Assignment – OFLC announced the group of 493 H-2B applications covering 12,098 worker positions with the start date of work of October 1, 2019, randomly selected for assignment.

State Dept. Announces Temporary Establishment and Retrogression of August Employment-Based Final Action Dates – There has been a steadily increasing level of employment-based applicant demand for adjustment of status cases, and there is no indication that this trending increase will end. Therefore, the agency has established or retrogressed many of the August Final Action Dates.

DHS, DOJ Issue Joint Third-Country Asylum Rule – The Departments of Homeland Security and Justice issued a joint interim final rule barring eligibility for asylum, with some exceptions, for those entering or attempting to enter the United States via the southern border after transiting through a third country. The ACLU and others quickly filed suit to stop the ban.

USCIS Announces Changes to Naturalization Test – A USCIS working group is revising the naturalization test, and the agency is formalizing a decennial revision process to allow for updates every 10 years. Critics believe this is part of efforts by the Trump administration to reduce naturalizations.

State Dept. Announces Diversity Lottery 2020 Results – Approximately 83,884 applicants have been registered and notified and may now apply for an immigrant visa.

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DOL Unveils New H-2A Proposed Rule

The Department of Labor (DOL) posted online an unofficial version of a Notice of Proposed Rulemaking (NPRM) on July 15, 2019, in advance of publication in the Federal Register, on proposed changes to the H-2A temporary agricultural labor certification program. DOL said the proposed changes would modernize the agency's H-2A regulations "in a way that is responsive to stakeholder concerns and enhances employer access to a legal source of agricultural labor, while maintaining the program's protections for the U.S. workforce and enhancing enforcement against fraud and abuse."

Among other things, the NPRM would mandate electronic filing of job orders and applications, promote the use of digital signatures, and provide employers with the option of staggering the entry of H-2A workers on a single application. The NPRM also proposes to enhance standards applicable to rental housing and public accommodations, strengthen surety bond requirements, expand DOL's authority to use enforcement tools like program debarment for substantial violations of program rules, and update the methodologies used to determine the Adverse Effect Wage Rates and prevailing wages.

Details: Unofficial NPRM, <https://www.foreignlaborcert.doleta.gov/pdf/2019-07-15-ETA-1205-AB89-Temporary-Agricultural-Employment-of-H-2A-Nonimmigrants.pdf>; DOL announcement, <https://www.foreignlaborcert.doleta.gov/>

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House Holds Hearing on USCIS Policy Changes, Processing Delays

On July 16, 2019, the House of Representatives held a hearing on policy changes and processing delays at U.S. Citizenship and Immigration Services (USCIS). Witnesses included representatives from USCIS, the American Immigration Lawyers Association (AILA), Catholic Legal Immigration Network (CLINIC), the Immigrant Legal Resource Center, and the Center for Immigration Studies. Statements were also submitted by various organizations.

Regarding policy changes, Jill Marie Bussey, CLINIC's Director of Advocacy, cited the expansion of in-person interview requirements and related "extreme vetting," new rules on requests for evidence and notices of intent to deny, elimination of the 90-day processing requirement for employment authorization documents, information services "modernization" that includes narrowing of the options and points of access for stakeholders to request information and services regarding their pending cases, the ending of self-scheduling of in-person InfoPass appointments at field offices, and diverting resources to enforcement-focused activities. All of these policy changes, she said, are contrary to USCIS's mission, contribute to backlogs and inefficiencies, and create unnecessary barriers for applicants and their legal representatives, are not justified by data, and thus have contributed to significant consequences and cascading effects for employers, legal service providers, individuals and families, and USCIS and other agencies.

With respect to processing delays, Marketa Lindt, AILA President, testified that USCIS's average case processing time surged by 46 percent from FY 2016 to FY 2018 and by 91 percent from FY 2014 to FY 2018. "[I]n FY 2018 the agency processed 94 percent of its benefit form types more slowly than in FY 2014. For many of these form types, processing times more than doubled in recent years, and some tripled. This past fiscal year, the agency's overall backlog of delayed cases exceeded 5.69 million, a 69 percent increase over FY 2014."

Details: Hearing testimony and statements, <https://bit.ly/2LWUAp8>

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OFLC Announces List of H-2B Applications Selected for Assignment

The Department of Labor's Office of Foreign Labor Certification (OFLC) announced the group of 493 H-2B applications covering 12,098 worker positions with the start date of work of October 1, 2019, randomly selected for assignment.

OFLC said it successfully completed the randomization process on July 8, 2019, and assigned to analysts all of the H-2B applications placed in Assignment Group A for issuance of notices of deficiency or acceptance. Because the total number of H-2B applications contained an insufficient number of worker positions to reach the first semiannual visa allotment (33,000), no other assignment groups were created. OFLC provided written notice to each employer and, where applicable, the employer's authorized attorney or agent.

Details: List of H-2B applications in Assignment Group A, https://www.foreignlaborcert.doleta.gov/pdf/H-2B_Applications_Randomly-Selected-for-Assignment_July3-5_07.15.19_508.pdf; DOL announcement of H-2B temporary labor certification program changes and how applications are assigned to staff for review, https://www.foreignlaborcert.doleta.gov/pdf/OFLC_Procedural-Change_H-2B_Application-Assignment_02.26.19.pdf

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State Dept. Announces Temporary Establishment and Retrogression of August Employment-Based Final Action Dates

The Department of State's (DOS) Visa Bulletin for August 2019 notes that there has been a steadily increasing level of employment-based applicant demand since late May for adjustment of status cases filed with U.S. Citizenship and Immigration Services, and there is no indication that this trending increase will end. Therefore, the agency has established or retrogressed many of the August Final Action Dates in an effort to hold worldwide number use within the maximum allowed under the FY 2019 annual limits.

The implementation of these dates is expected to be only a temporary issue, DOS said. For October, the first month of fiscal year 2020, "every effort will be made to return these final action dates to those which applied for July."

Details: DOS Visa Bulletin for August 2019 (scroll down to "D"), <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-august-2019.html>

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DHS, DOJ Issue Joint Third-Country Asylum Rule

On July 16, 2019, effective immediately, the Departments of Homeland Security and Justice issued a joint interim final rule barring eligibility for asylum, with some exceptions, for those entering or attempting to enter the United States via the southern border who did not apply for protection in at least one third country outside the person's country of citizenship, nationality, or last lawful habitual residence through which they transited en route to the United States. The rule would also require asylum officers and immigration judges to apply this new bar on asylum eligibility when administering the credible-fear screening process applicable to stowaways and aliens subject to expedited removal under section 235(b)(1) of the Immigration and Nationality Act. The new bar established by this regulation does not modify withholding or deferral of removal proceedings.

The American Civil Liberties Union (ACLU) Foundation's Immigrants' Rights Project and others immediately filed suit in the U.S. District Court in San Francisco, California, to stop the asylum

ban. They argued that under U.S. law, the government cannot disqualify asylum applicants solely on the basis of transiting through a third country. The complaint states that the rule "is a part of an unlawful effort to significantly undermine, if not virtually repeal, the U.S. asylum system at the southern border."

Comments on the interim final rule are due by August 15, 2019, to be submitted by one of the methods listed in the rule.

Details: DHS announcement, <https://www.dhs.gov/news/2019/07/15/dhs-and-doj-issue-third-country-asylum-rule>; interim final rule, <https://www.federalregister.gov/documents/2019/07/16/2019-15246/asylum-eligibility-and-procedural-modifications>; ACLU complaint, <https://www.dropbox.com/s/4wckd0ol9hhusb8/1-main.pdf?dl=0>

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USCIS Announces Changes to Naturalization Test

On July 19, 2019, U.S. Citizenship and Immigration Services (USCIS) announced that it is revising the current naturalization test in English and civics.

In December 2018, USCIS formed a naturalization test revision working group with members from across the agency. The working group is reviewing and updating the naturalization test questions. The group will also assess potential changes to the speaking portion of the test. USCIS said it "is soliciting the input of experts in the field of adult education to ensure that this process is fair and transparent." Details of the changes being considered were not released. USCIS plans to pilot the test revision this fall, and to set an implementation date in December 2020 or early 2021. USCIS is also formalizing a decennial revision process to allow for updates every 10 years. Critics have expressed concerns that the announcement is a continuation of efforts by USCIS to make naturalization more difficult, including dramatically slowing down the processing of naturalization applications.

Details: USCIS announcement, <https://www.uscis.gov/news/news-releases/uscis-announces-plan-improve-naturalization-test>; USCIS memorandum on the revisions, <https://bit.ly/2xY4XAM>

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State Dept. Announces Diversity Lottery 2020 Results

The Kentucky Consular Center has registered and notified the winners of the DV-2020 diversity lottery. Approximately 83,884 applicants have been registered and notified and may now apply for an immigrant visa, the Department of State (DOS) announced. Since it is likely that some of the persons registered will not pursue their cases to visa issuance, the agency said this larger figure should ensure that all DV-2020 numbers will be used during fiscal year 2020 (October 1, 2019, to September 30, 2020).

Applicants registered for the DV-2020 program were selected at random from 14,722,798 qualified entries (23,182,554 with derivatives) received during the 34-day application period in late 2018. The visas have been apportioned among six geographic regions with a maximum of seven percent available to persons born in any single country.

During the visa interview, principal applicants must provide proof of a high school education or its equivalent, or show two years of work experience in an occupation that requires at least two years of training or experience within the past five years. DOS said that those selected will need to act on their immigrant visa applications quickly. Applicants should follow the instructions in their notification letters and must fully complete the information requested.

Details: DOS Visa Bulletin for August 2019 (scroll down to "E"), which includes a country-by-country list of the numbers, <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-august-2019.html>

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New Publications and Items of Interest

How to create a case in E-Verify. E-Verify has released a new video series, "How to Create a Case." The short videos include Create an E-Verify Case (<https://www.youtube.com/watch?v=NyqZOegUGEs>), Close an E-Verify Case (<https://www.youtube.com/watch?v=N9qNyb8vNDI>), and Process and Refer Your Tentative Nonconfirmation (TNC) Case (<https://www.youtube.com/watch?v=2MSmt1eBbf4>).

How to prepare for immigration raids. Cornell University's immigration technology clinic has developed an automated online interview to help people prepare if they or others are worried about being detained or deported. It can help people prepare their family, manage their property, close out their bank accounts, and perform other emergency preparations. The online interview is available in English and Spanish at https://www.immi.org/en/Home/make_a_plan.

Responding to large-scale immigration raids. The Immigration Justice Campaign and the American Immigration Lawyers Association have released information on what to do in the event of large-scale interior enforcement actions. See <https://www.immigrationjustice.us/volunteeropportunities/raids-preparation-teams> and <https://www.aila.org/advo-media/issues/all/featured-issue-2019-large-scale-enforcement>.

CBP accountability. A new website documents litigation across the United States in an effort to establish U.S. Customs and Border Protection (CBP) accountability and transparency. The website, which also directs readers to additional resources, is a joint project of the American Civil Liberties Union of San Diego and Imperial Counties, the American Immigration Council, the National Immigration Project of the National Lawyers Guild, and the Northwest Immigrant Rights Project. See <https://holdcbpaccountable.org/>.

Immigrant and Employee Rights webinars. The Department of Justice's Immigrant and Employee Rights Section is offering free webinars to the public. The webinars are for workers, employers, and advocates. For more information or to register, see <https://www.justice.gov/crt/webinars>.

Alliance of Business Immigration Lawyers:

- ABIL is available on Twitter: [@ABILImmigration](#)
- Recent ABIL member blogs are at <http://www.abilblog.com/>

Organizations providing help at the southern border and seeking non-lawyer and lawyer volunteers. Cornell Law School's Migration and Human Rights Program has compiled a list of organizations providing help at the southern border, and seeking donations and non-lawyer and lawyer volunteers to help migrants in U.S. detention and deportation proceedings. The list, which is updated on an ongoing basis, is at <http://www.lawschool.cornell.edu/MigrationandHumanRightsProgram/Organizations-seeking-non-lawyer-and-lawyer-volunteers.cfm>.

Nation of immigrants. Podcasts on U.S. immigration history and what it means to be an immigrant in America:

- Statutes of Liberty: <http://bit.ly/2thMM9O> (new episodes: A Prescription for Success: EB-1 for Physicians, <https://bit.ly/2J7oSjV>; The Best, Brightest, and Backlogged, discusses the backlog, who it affects, how to read the Visa Bulletin, and strategies for EB-1 visas, <https://bit.ly/2E6vamz>)
- Code Switch Podcast: What Does It Mean To Be A 'Nation of Immigrants?': <http://n.pr/2FeWWg4>
- Hidden Brain: The Huddled Masses and the Myth of America: <http://n.pr/2Fbo9kC>

- American Pendulum I: <http://bit.ly/2FbYKY3>

Advisories and tips:

- Community Advisory: Social Media, Criminalization, and Immigration has been published by the National Lawyers Guild's National Immigration Project. This advisory summarizes ways in which immigration agents may use social media against those in removal proceedings or involved in criminal cases. The advisory is at https://www.nationalimmigrationproject.org/PDFs/community/2017_03Apr_comm-adv-social.pdf.
- How to safeguard your data from searches at the border is the topic of several recent articles and blogs. See, for example, <https://www.nytimes.com/2017/03/21/technology/personaltech/crossing-the-border-heres-how-to-safeguard-your-data-from-searches.html> and <https://www.aclu.org/blog/free-future/can-border-agents-search-your-electronic-devices-its-complicated>.
- Listings and links to cases challenging executive orders, and related available pleadings, are available at <https://lawfareblog.com/litigation-documents-resources-related-trump-executive-order-immigration>.

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ABIL Member/Firm News

Charles Kuck (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>) was quoted by the *New York Times* in "What Happens After an ICE Raid? Explaining the Deportation Process." Mr. Kuck noted that authorities in the past have used ruses to coax their targets into cooperating, like pretending to be looking for someone else. The article is at <https://www.nytimes.com/2019/07/16/us/ice-raid-deportation.html>.

Mr. Kuck has released a new podcast series, the Immigration Hour. The latest episode discusses the "raids" that did not occur, the economic impact of the current climate, the role of Ken Cuccinelli as new Director of USCIS, and the "new" anti-asylum regulations. The podcast is at <https://www.stitcher.com/podcast/kuck-baxter-immigration-llc-2/the-immigration-hour>.

Kuck Baxter Immigration LLC has opened a new office in Adel, Georgia, near the Irwin, Folkston, and Stewart Detention Centers, which hold more than 5,000 detained immigrants. The new office will be run by Elizabeth Matherne, who is the former Southern Poverty Law Center's director for the Irwin Detention Project.

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was interviewed by *Raw Story* in "Immigration Expert Explains Why Trump's Migrant Policy Won't Work." Among other things, in response to a question asking for his thoughts on U.S. Immigration and Customs Enforcement, he said, "All countries need some kind of immigration enforcement agency. The question is how to manage immigration enforcement humanely and effectively. Moreover, Congress will never appropriate enough money to round up and deport all 11 million undocumented immigrants estimated to be in the United States. We should focus our limited priorities on removing terrorists, not people who simply overstayed their visas." The article is at <https://www.rawstory.com/2019/07/immigration-expert-explains-why-trumps-migrant-policy-wont-work/>.

Mr. Yale-Loehr discussed "Immigration Meritocracy," regarding his new research project studying merit-based immigration, what a "merit-based" immigration system means, and how it would work in the United States, in a podcast presented by the Everyday Immigration Podcast, produced by LionCeau Productions LLC. The podcast is at <http://lionceauproductions.com/immigration-meritocracy-ei-2-stephen-yale-loehr/>.

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Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of Labor, and the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS Service Center processing times online:

<https://egov.uscis.gov/cris/processTimesDisplay.do>

Department of State Visa Bulletin: <https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>

Visa application wait times for any post: <https://travel.state.gov/content/visas/en/general/wait-times.html/>

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About ABIL

The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 370 member lawyers and their more than 800 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' website is at <http://www.abil.com/>. ABIL is also on Twitter: [@ABILImmigration](#).

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