

PERM REGULATION EXPECTED BY JANUARY 1, 2005

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by

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The long-awaited PERM regulation which will overhaul the labor certification process is expected to be published in the Federal Register by January 2005. Once published, it is anticipated that the new PERM program will become effective 60 days after published. Assuming publication in early January 2005, that would mean that the PERM program would officially start in early March 2005. Again, all of these dates are anticipated and are based on statements by labor department officials. The official start date for PERM depends on the date that the PERM regulation is published in the Federal Register. Long, Chang & Associates, L.L.P. has been tracking developments related to PERM and will publish a PERM update on www.longchangoonline.com as soon as PERM becomes official.

As readers of www.longchangoonline.com know from our past PERM articles, PERM is an acronym for Program Electronic Review Management. The PERM program is expected to overhaul the basic labor certification process. The PERM program has both advantages and disadvantages when compared to the current labor certification process.

One major advantage of PERM is the speed with which a decision will be reached on a labor certification case. Under PERM, a decision will be made within 21 days of a completed labor certification being filed with the Department of Labor. This is a major benefit since current labor certification processing times can range from several months to several years depending on where the case is filed.

Unfortunately, there are disadvantages to PERM. The PERM program is expected to prohibit the use of special job requirements (such as foreign language requirements) and to require significantly more advertising for the job opening before a case can be filed. It is expected that the nature of the job will determine how much and what types of advertising must be conducted. For non-professional jobs (i.e., jobs which do not require a college degree), the employer will be required to advertise the job opening in a Sunday newspaper on two different occasions with three weeks in between each Sunday newspaper advertisement, and to place a job order advertisement for 30 days with the local Employment Security Commission office. For professional jobs (i.e., jobs which require a college degree), the employer will likely be required to advertise in a Sunday newspaper as well as in a professional journal. It is believed that the employer will also

be required to demonstrate three additional advertising sources, such as website, job fairs or additional newspaper advertisements. Again, the foregoing advertisement requirements are what is expected based on the proposed PERM regulation and previous reports from the Department of Labor. These advertising requirements cannot be confirmed until such time as the PERM regulation is officially published. Once the PERM regulation is published, Long, Chang & Associates will provide a detailed analysis of PERM on our website at www.longchangonline.com.

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