

PERM UPDATE

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by
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The effective date of the new PERM labor certification regulation is March 28, 2005. At Long, Chang & Associates, we are busy preparing numerous cases for filing under the new PERM regulation. For the latest information on PERM, including the Department of Labor's response to Frequently Asked Questions on PERM, please visit www.longchangoonline.com.

Prior to filing a PERM case, the "prevailing wage" must be determined. The "prevailing wage" is the wage that the government determines is the customary wage for the job in question in the particular geographic area where the job will be performed. An employer sponsoring a foreign national in a labor certification case must offer the greater of the actual wage for the job or the prevailing wage.

A recent law has specified that, in both H-1B and labor certification cases, the prevailing wage must be determined using new criteria which were supposed to be implemented as of March 8, 2004. The prevailing wage determination is made by the State Workforce Agency where the job is located. Unfortunately, many of these State Workforce Agencies still are not issuing prevailing wage determinations even though the March 8 date has since passed. At Long, Chang & Associates, we contacted the North Carolina State Workforce Agency official in charge of issuing prevailing wage determinations. On March 8, 2005, she indicated that North Carolina was not able to make the required prevailing wage determinations since her office has not yet received any training on how the prevailing wage determinations should be made under the new system. Her office is scheduled to receive the required training on March 17, 2005 and should be able to issue the required prevailing wage determinations shortly thereafter.

Since the wage information should be known before advertising the job and must be known in order to complete the PERM form, the fact that a prevailing wage determination cannot be issued by the State Workforce Agency until sometime after March 18, 2005 may slightly delay the ability to file a PERM labor certification case.

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