

Review of Significant Changes to PERM Labor Certification Filings Effective June 1

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On June 1, the Office of Foreign Labor Certification (OFLC) fully transitioned the filing of Form ETA 9089 PERM Labor Certification Applications to the Foreign Labor Application Gateway (FLAG). The change is part of an effort to further consolidate Department of Labor (DOL) filings for foreign workers, as FLAG is the same portal that DOL utilizes for other filings such as labor condition applications and prevailing wage determinations.

With this change, the OFLC has also introduced a new version of Form ETA 9089. The new “smart form” allows stakeholders to link prevailing wage determinations also filed electronically in FLAG, both in-network and out-of-network. Overall, the new form is substantially similar to the old version, but there are a few significant changes that allow employers to provide more specifics regarding job details and job requirements.

The changes include more detailed explanations of worksites and telecommuting options, demonstrating the DOL’s attempt to modernize the ETA 9089 for the post-pandemic landscape. Additionally, filing PERMs in the FLAG system removes the need for employers to create and maintain a separate DOL account, which was a requirement for filing cases in the legacy PERM system.

Even though May 31 was the last day for filers to submit PERM applications via the previous system, all cases filed prior to the FLAG deployment will continue to process as normal in the legacy portal, as the system will otherwise remain operational. Filers with pending applications in the legacy PERM system can still upload documents in response to a PERM audit request or request for information. Users will also still be able to withdraw applications, request reconsideration or appeal, and use the OFLC’s help desk system as normal.

The DOL has indicated it will not begin processing new PERM applications filed through the FLAG portal until it has completed processing of backlogged cases pending in the legacy PERM system. As such, newer applications filed in FLAG may take longer to process than usual, so it is unlikely that implementation of the new FLAG-based PERM process will improve [PERM processing times](#).

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