
NEW FORM ETA-9035 LABOR CONDITION APPLICATION REQUIRED BEGINNING JULY 1, 2009;

May Add Delay to H-1B Preparation

The U.S. Department of Labor (DOL) recently announced new effective dates for the Department's new iCert web portal and new Form ETA-9035 Labor Condition Application and Form ETA-9089 PERM Labor Certification Application.

The new forms require more information and detail than earlier versions. Additionally, because the ETA-9035 Labor Condition Application (LCA) certification process will no longer be instantaneous due to DOL substantive review of applications, it will be necessary to plan ahead for the preparation and filing of the LCA for H-1B Change of Employer and Extension petitions. DOL changes could extend the lead-time for filing H-1B petitions by as much as 2 weeks.

The DOL has been accepting the new Form ETA-9035 since April 15, 2009, and will discontinue accepting the old Form ETA-9035 on June 30, 2009. Certifications issued on the old form will remain valid for timely filed H-1B petitions.

The DOL also anticipates a further delay in the effective date of the new PERM Form ETA-9089 via the iCert portal, and will likely announce a further delay beyond September 2009, for the initiation of PERM Applications through the new system. The old PERM filing system will remain in effect until the final effective date for the new PERM form within the iCert system.

As always, Foster Quan will continue to monitor DOL programmatic changes and will make new information available in future Immigration Updates[©] and on our firm's website at www.fosterquan.com.