



EMAIL BULLETIN

ERRONEOUS PERM LABOR CERTIFICATION APPLICATION DENIALS AND PERM SYSTEM GLITCHES ARE STILL COMMON

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More than six months after implementation of the Department of Labor's new PERM electronic filing program for Alien Employment Certification, users continue to report system glitches and erroneous denials.

In some cases, applications were denied for alleged failure to complete one or more fields which were, in fact, properly completed. In other cases, accurate answers in certain fields were not recognized because the computer program was expecting a different form of response. In such cases, effective human review could avoid an erroneous denial; however, it appears that denials for incompleteness may be automatic and could be based entirely on the program's "decision logic."

While procedures are in place for review of denials, employers and beneficiaries must be cognizant of limitations imposed by the review process. If an employer decides to avail himself of the right to seek review of the application, the employer is not permitted to re-file the PERM application in the interim while awaiting a decision on appeal. At this time, the DOL is unable to estimate the length of the review period.

In situations where recruitment has aged it may be more appropriate to seek a review of the denial. A favorable outcome on review will save the employer the cost and potential complications of undergoing additional recruitment efforts in advance of re-filing the PERM application.

If your company has received a PERM denial that you believe to be erroneous and would like assistance in developing a strategy for review or re-filing, please contact your Tindall & Foster attorney. Your Tindall & Foster immigration attorney can assist you in "troubleshooting" reasons for a denial and developing an appropriate strategy to overcome it.