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Immigration Magazine

## Recent Reports on Lost of Expiring Original Certified PERM form ETA 9089 for Permanent Labor Certification

Tiyalaw · Sunday, May 15th, 2011

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Recently, there have been reports that original certified forms ETA 9089 for permanent labor certification PERM process were not received. There was also an incident where the original certified form ETA 9089 was lost after being filed with the I-140 Immigrant Petition. Lost of original certified forms ETA 9089 unnecessarily complicates and increases green card processing time for foreign nationals and their employers. *For more information on the PERM process, please read the last paragraphs below*.

In a situation where the original certified form ETA 9089 is unavailable, the employer-sponsors may be unaware that their forms ETA 9089 have been certified, thereby missing the crucial filing periods for their I-140 Immigrant Petitions. The applicable I-140 petition must be filed during the validity period stipulated on the certified form ETA 9089. The original certified form ETA 9089 is submitted with the I-140 petition to the U.S. Citizenship and Immigration Services (USCIS). It is also possible that the original certified form ETA 9089 is lost during the filing process of the I-140 petition after being sent off by the employer-sponsor.

Due to recent reports on missing original certified forms ETA 9089, the following steps are encouraged:

- For PERM application filed electronically, please check the online case status to verify whether it has changed from “in process” to “certified.” A pdf copy of the certified ETA 9089 can also be downloaded from the PERM website.
- For PERM application filed by mail, please check the status of the case by e-mailing the U.S. Department of Labor (DOL) Atlanta NPC (National Processing Center) if the case is pending at least 3 months beyond the current processing date.
- Also check the iCERT portal’s latest PERM processing time at http://icert.doleta.gov/ . If the pending PERM case is more than 3 months beyond the date being processed, send an

inquiry to the applicable DOL PERM center.
- If original PERM approval was never received, one can submit the I-140 petition with a copy of the approval (or with other proof that it was certified, such as an e-mail from the Atlanta NPC), and ask USCIS to request a duplicate certification from DOL. Also, if the certified ETA 9089 is lost during I-140 petition processing after filing, it may be best to ask U.S. Citizenship and Immigration Services (USCIS) to request a duplicate certification from DOL by including a copy of the approval; and other proof that it was certified, such as an e-mail from the DOL.

Foreign nationals may apply for green card to live and work in the United States via several methods. The common methods of green card applications are green card lottery, employer sponsorship such as through PERM, self-petition green cards such as extraordinary ability or certain national interest waiver category, etc.

PERM is a process of permanent labor certification by the U.S. Department of Labor (DOL). PERM filing with the DOL is submitted via form ETA 9089. Some green card sponsorships by employers require the PERM process and some do not. PERM stands for Program Electronic Review Management System. PERM is a process whereby the U.S. Department of Labor determines that:

a) The employer-sponsor has adequately tested the U.S. labor market to ascertain that there are no qualified, willing, able and available U.S. workers for the green card position;

b) The job requirements of the employer-sponsor are not unduly restrictive;

c) The offered green card salary meets the DOL prevailing wage criteria;

d) The employment of the foreign national will not adversely affect the wages and conditions of U.S. workers who are similarly employed; and

e) The foreign national meet the job requirements for the green card position in compliance with the criteria promulgated by immigration law.

Once the U.S. Department of Labor approves the PERM application by certifying the form ETA 9089, the employer sponsor may then submit the I-140 Immigrant Petition during the validity of the certified PERM form ETA 9089. Depending on the criteria, the foreign national may also submit his/her I-485 Application to Adjust to Permanent Resident Status with the I-140 petition. During the I-485 stage, the foreign national can also file for the I-765, Application for Employment Authorization Document (EAD card); and I-131, Advance Parole Document (an international travel authorization).

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We represent employers, and individuals and their families in green card and work visa matters in U.S. immigration law. We also have a focus on self-petition green card

cases such as extraordinary ability and national interest waiver.

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