

How Has the New Form ETA 9089 Changed the PERM Process?

The Department of Labor (DOL) recently shared some key takeaways regarding the new Form ETA 9089. The new Form ETA 9089 is created in the Foreign Labor Application Gateway (FLAG) implemented by DOL on June 1, 2023. Some of those key takeaways include the following:

- There has been no substantive change to the PERM practice; only the form has been updated and incorporated into the FLAG system. The regulations, FAQs, DOL guidance, and BALCA decisions have not changed. With the FLAG system, employers will no longer need to create an account for the attorney to prepare and file a PERM application. Upon filing Form ETA 9089, employers and the attorney of record will receive an email confirming the filing. However, the employer will no longer receive a sponsorship verification questionnaire to answer.
- The legacy PERM system remains active for post-filing functions, while no new Forms ETA 9089 can be filed using that system.
- Form ETA 9141 Prevailing Wage Determination (PWD) is linked with the new Form ETA 9089.
- A physical Notice of Filing (NOF) will still be required. The DOL Committee notes that while the new Form ETA 9089 includes “No Bargaining Representatives – Electronic Notice” as an option, this is not a legally viable option in lieu of the physical posting of the NOF.

Please contact a member of our team if you have any questions.



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