

## **New Rule Affecting Permanent Labor Certification Process**

In a move to rid the labor certification process of fraud and misuse, the Department of Labor has announced a new rule effective July 17, 2007. The new rule prohibits substitution of alien beneficiaries on labor certification applications, limits the validity period of an approved labor certification to 180 days and requires employers to pay the costs associated with preparing and filing the labor certification.

The labor certification process has created a considerable backlog in governmental processing. As a result, the Department of Labor has allowed employers to substitute new aliens on pending or approved labor certification applications. Because the Department of Labor has greatly reduced the backlog, this custom will now change. An employer wishing to change the alien listed on the labor certification will now have to file a new labor certification application and begin the process anew.

Also under the new rule, all permanent labor certifications will expire after 180 calendar days of certification unless filed in support of an immigrant petition with the Department of Homeland Security. Thus, an employer waiting more than 180 days after certification to petition for a worker will, again, have to redo the labor certification process.

Finally, the new rule prohibits employers from obtaining payment for “any activity related to obtaining permanent labor certification.” This includes attorneys’ fees and recruiting costs associated with the labor certification. Under the new rule, employers are prohibited from receiving any kind of payment or reimbursement including monetary payments, wage concessions and deductions from wages.