

Immigration Attorney Magdalena Cuprys publishes new article in her instructional series, on employment-based immigration

In the most recent article, Magdalena Cuprys, Esq. addresses and explains the employment-based Green Card through the so-called PERM process

MIAMI, FLORIDA, UNITED STATES, September 24, 2018 / EINPresswire.com/ -- In the third article of her series of Instructional Articles, Florida [Attorney Magdalena Cuprys](#) comments on how to obtain a Green Card ("permanent residence") through employment in the U.S. This is a highly complicated process, with many exceptions and special rules. Thus, this article can only provide a general explanation of the process. Specific issues should be discussed with a qualified attorney based on the facts and circumstances of a specific case.

WHAT IS "Program Electronic Review Management process" (PERM)?



Magdalena Cuprys, Immigration Lawyer in Florida

For most people seeking permanent residency (Green Card) in the USA through employment, PERM labor certification through the U.S. Department of Labor is the first step in the process. In a nutshell, PERM is a process whereby an employer who is interested in hiring a foreign worker, places job advertisements to test the U.S. labor market. If no interested or qualified U.S. worker responds, the U.S. Department of Labor certifies that result. With that, the employer can petition a Green Card for the foreign employee.

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Does a PERM Labor Certification mean a quicker Green Card ...? Not really. ... there are two more steps ...: (1) filing the I-140 Immigrant Petition ... and (2) filing the I-485 ...”

*Magdalena Cuprys,
Immigration Lawyer*

This article is based in large part on the “OFLC Frequently Asked Questions and Answers” on the U.S. Department of Labor, Employment & Training Administration’s Website: <https://www.foreignlaborcert.doleta.gov/faqsanswers.cfm>.

On March 28, 2005, the new Labor Certification for the Permanent Employment of Aliens in the United States (PERM) became effective. Under this system, labor certifications are based on the following standards:

* whether or not there are sufficient United States workers who are able, willing, qualified, and

available;

- * whether the employment of the alien will have an adverse effect on the wages and working conditions of United States workers similarly employed; and

- * whether the employer has met the procedural requirement of the regulations.

Nevertheless, there have been some significant changes in the PERM system compared to prior procedures:

FILING

Employers may submit the Application for Permanent Employment Certification (ETA 9089) electronically. The employer can access the Department of Labor Website to register and establish an account that will allow the employer to electronically fill out and submit Form ETA 9089. Unlike the former system, employers file applications directly with the U.S. Department of Labor (not with a State Workforce Agency (SWA)). Although an employer has the option of filing an application by mail, the Department of Labor recommends that employers file electronically. Not only is it faster, it ensures that the employer has provided all required information because an electronic application cannot be submitted if the required fields are not completed. Supporting documents are no longer submitted with the application. However, the employer must provide the required supporting documentation if the employer's application is selected for audit or if the Certifying Officer otherwise requests it. The employer is required to retain all supporting documentation for five years from the date of filing the Form ETA 9089.

RECRUITMENT

PERM requires the employer to conduct recruitment (job advertising) prior to filing. The types of advertising depend on the type of position. Recruitment provisions are divided into "professional" and "nonprofessional" occupations; additional recruitment steps are required for professional occupations. A list of professional occupations is published in Appendix A to the preamble of the final PERM regulations. Professional occupations are those for which a bachelor's degree or higher is a customary requirement.

Recruitment under PERM also requires advertisements in the Sunday edition of a relevant newspaper. An acceptable newspaper is one that the employer is able to document that will be

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Website Magdalena Cuprys, Immigration Attorney in Florida



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the most likely to bring responses from able, willing, qualified, and available U.S. workers.

In addition to the required recruitment steps, the employer must place a job order with the SWA serving the area of intended employment. Placement of job orders with a SWA must be in accordance with each SWA's rules and regulations.

PERM was implemented to improve the operations of the labor certification process. Nevertheless, the essential requirements of the process have remained the same:

- * The foreign worker must be hired as a full-time employee.
- * The job must be a bona fide position available to U.S. workers.
- * The job requirements must represent those customarily required for the occupation in the United States and may not be tailored to the foreign worker's qualifications (such as with foreign language requirements).
- * The employer must pay at least the prevailing wage for the occupation in the area of intended employment.

Does a PERM Labor Certification mean a quicker Green Card for employees?

Not really. One might think that PERM expedites the entire "Green Card" process. That is not necessarily so, notes [Ms. Cuprys](#). The PERM system went into effect on March 28, 2005, and has in fact expedited the Labor Certification process itself. However, beyond the Labor Certification, there are two more steps involved in becoming a United States permanent resident: (1) filing the I-140, Immigrant Petition for Alien Worker and (2) filing the I-485, Application to Adjust Status. It is with the I-485 that the delays are occurring, especially for applicants from certain countries with many immigration applicants such as Mexico and India.

Once the Department of Labor has approved the PERM Labor Certification, it means the Department of Labor found that there are not enough able, willing, and qualified U.S. workers available to perform the alien's job. The next step is to file an I-140 with the Immigration Service (USCIS), which is done by the employer of the alien. The I-140 approval means the Immigration Service has found that the alien is in fact qualified for the position certified in the labor certification and approves their employment in this capacity.

The final step, filing an I-485 application to adjust status to that of a "permanent resident," usually takes the longest. For some nationalities the wait time can be many years. This is due to the fact that there are more individuals (especially those born in India, Mexico, the Philippines,

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Services

Magdalena Cuprys is the principal of Serving Immigrants, a full-service [immigration law](#) firm offering a complete range of immigration services to both businesses and individuals. The law firm is uniquely qualified to manage the most contentious and unusual immigration needs. Swift resolution of immigration-related issues is integral to a client's ability to conduct business or reach their personal goals in the United States. Located in Miami and Clewiston, the firm's offices provide corporate and individual clients of foreign nationality with temporary work permits for the U.S., green card petitions, criminal waivers and representation in removal proceedings cases. With over a decade of experience, the law firm provides clients with the confidence that their cases will be handled by an expert who understands their needs and how to obtain their goals. Although the majority of the law firm's clients live in Florida, it represents people from all over the United States and several foreign countries.

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Attorney profile of Magdalena Cuprys at www.solomonlawguild.com



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and China) applying for immigrant visas than there are immigrant visas available. As an "immigrant visa" must be immediately available to adjust status, an I-485 application cannot be filed until the "priority date" is earlier than the date listed on the Department of State's monthly Visa Bulletin. When one files a PERM labor certification, one receives a "priority date" (the filing date). The priority date, the country in which one was born, and the employment-based category (determined by the requirements of the job) determine when one can file an I-485.

To see who is currently eligible to file an I-485, the Department of State issues a monthly Visa Bulletin with a list of current priority dates. This can be found at the following link:

<https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>

For example, as of October 2018, an individual born in India and classified in the third preference employment-based category, who filed the PERM Labor Certification before October 1, 2009, is now eligible to file the I-485, Application to Adjust Status, and thus complete the Green Card process.

The complete article will be published on the Blog of Ms. Cuprys, at <https://magdalenacuprysblog.blogspot.com/>

About Magdalena Cuprys, Immigration Attorney in Florida

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https://pview.findlaw.com/view/4161404_1 Media News article "Broward Transitional Center:

Immigrants With No Criminal History Get Lengthy Stays At Little-Known Jail", published at

https://www.huffingtonpost.com/2013/01/06/broward-transitional-center-immigrants-detained_n_2417664.html See also http://articles.sun-sentinel.com/2013-01-05/news/fl-private-immigration-jail-20130105_1_illegal-immigrants-deutch-human-rights-abuses/4 See also the

news reports published at <http://www.jambonewspot.com/new/little-known-jail-where-immigrants-in-us-with-no-criminal-history-get-lengthy-stays/> and

<https://www.wptv.com/news/state/immigrants-with-no-criminal-history-get-lengthy-stays-at-private-south-florida-facility> Ms. Cuprys recently prevailed in a hotly contested asylum cases

against the U.S. Department of Homeland Security, see press release at

https://www.einpresswire.com/article/452266255/immigration-attorney-magdalena-cuprys-prevails-against-u-s-department-of-homeland-security-in-disputed-asylum-claim?r=pavx1xxw1Nt_HxqPVv and <https://www.prlog.org/12714538-in-disputed-asylum-claim-florida-immigration-attorney-magdalena-cuprys-prevails-against-dhs.html> Attorney Profile:

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