



## U.S. Department of Labor Employment & Training Administration

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### ETA News Release

ETA News Release: [May 17, 2007]  
Contact Name: Jennifer Coxe  
Phone Number: (202) 693-4676

#### **U.S. Department of Labor final rule to improve integrity in permanent labor certification program**

**WASHINGTON** – The U.S. Department of Labor today published a final rule that will improve program integrity and close opportunities for fraud in the employment certification of non-U.S. citizens for permanent residence in the United States.

The final regulation eliminates the current practice of substitution of alien beneficiaries on both permanent labor certification applications and approved labor certifications. Procedures for Department of Labor debarment of any employer found to be acting fraudulently have been included in the rule, as well. Provisions also expressly call for the prohibition of the sale, barter or purchase of permanent labor applications and certifications, and other related payments.

Today's rule ends substitution, which occurs when employers replace one alien applicant with another without losing their places in the processing line. This new prohibition applies to alien beneficiaries on permanent labor applications or certifications, including those pending review in the Labor Department's Backlog Processing Centers. The regulation also bans sponsoring employers from recouping foreign workers' costs, including those of legal counsel, related to preparing, submitting and obtaining a permanent labor certification. In addition, this provision precludes fee collection through payroll deductions and other means, such as lump sum payments.

Under the Immigration and Nationality Act, the secretary of labor must certify that:

- there are not sufficient workers able, willing, qualified and available to perform the work, and
- the employment of the alien will not adversely affect the wages and working conditions of U.S. workers in similar occupations.

Once these certifications are made, the U.S. Department of Homeland Security may approve petitions for the U.S. Department of State to issue permanent visas for qualifying foreign-born persons to work in the United States.

The final rule appears in today's edition of the Federal Register, and follows a February 13, 2006, Notice of Proposed Rulemaking that received numerous comments from the public.

To gain access to the complete rule, please visit [www.regulations.gov](http://www.regulations.gov). For more information on foreign labor certification programs at the U.S. Department of Labor, please visit [www.foreignlaborcert.doleta.gov](http://www.foreignlaborcert.doleta.gov).

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**Employment and Training Administration**

U.S. Department of Labor  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

1-877-US-2JOBS

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