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PERM Frequently Asked Questions Addressing "Business Days" Requirements

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Submitted by Editor on Dec 24th 2010

1.

[2]For purposes of posting the Notice of Filing for a permanent labor application, what does the Office of Foreign Labor Certification count as a "business day?"

OFLC has consistently interpreted "business day" to mean Monday through Friday, except for Federal holidays. However, where an employer is open for business on a Saturday, Sunday, and/or holiday, the employer may include the Saturday, Sunday and/or holiday in its count of the 10 consecutive business day period required for the posting of the Notice of Filing so long as the employer demonstrates that it was open for business on those days. Similarly, where an employer is not open for business any day, Monday through Friday, the employer should not include any such days in its count of the 10 consecutive business day period required for the posting of the Notice of Filing.

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2. **[3]How does an employer demonstrate that it is open for business?**

If an employer is requested on audit or otherwise to demonstrate that it was open for business on a Saturday, Sunday, and/or holiday at the time of posting, the employer must provide documentation which establishes that on those days: 1) its employees were working on the premises and engaged in normal business activity; 2) the worksite was open and available to its clients and/or customers, if applicable, as well as to its employees; and 3) its employees had access to the area where the Notice of Filing was posted **December 21, 2010**

3. **[4]What should I do if my permanent labor application was denied because I included a Saturday, Sunday, and/or holiday to complete the Notice of Filing 10 consecutive business day posting requirement?**

Within 30 days of the date of the determination, the employer may file a request for

reconsideration with the Certifying Officer and provide documentation demonstrating that at the time of posting the Notice of Filing, the employer was open for business. If the application is already on appeal before the Board of Alien Labor Certification Appeals, then the employer may file a request to remand for further processing. **December 21, 2010**

4. Can notices of filing for college and university teachers recruited under the competitive recruitment and selection process be posted after the selection process has been completed?

Yes, for college and university teachers, notices of filing may be posted after the selection process has been completed. An application for a college or university teacher may be filed up to 18 months after the selection is made and a notice of filing must be provided between 30 and 180 days prior to filing the application either by providing notice to the bargaining representative, if one exists, or by posting notice at the facility or location of employment.

5. Must the ten consecutive business days posting of the notice of filing timeframe end at least 30 days prior to filing?

Yes, the last day of the posting must fall at least 30 days prior to filing in order to provide sufficient time for interested persons to submit, if they so choose, documentary evidence bearing on the application

Green Card:

PERM - Labor Certification [5]

Agency:

DOL [6]

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Links:

[1] <https://immigration.com/news/perm-labor-certification/perm-frequently-asked-questions-addressing-business-days-requirements>

[2] <http://www.foreignlaborcert.doleta.gov/faqsanswers.cfm#notefile1>

[3] <http://www.foreignlaborcert.doleta.gov/faqsanswers.cfm#notefile2>

[4] <http://www.foreignlaborcert.doleta.gov/faqsanswers.cfm#notefile3>

[5] <https://immigration.com/greencard/green-card/perm-labor-certification>

[6] <https://immigration.com/agencies/agency/dol>