THOMPSON HINE



Immigration Update

November 2026

DOL Proposes Major Changes to PERM Labor Certification Process

Key Notes:

- DOL has proposed sweeping changes to PERM recruitment, filing, and layoff rules. Comments are due January 19, 2027.
- Although the rule has not been finalized, employers expecting to file PERM cases in 2027 may want to finish recruitment under the existing rules before the close of Q1 2027.

On November 17, the U.S. Department of Labor (DOL) published a proposed rule that would significantly change the PERM labor certification process – the first step for most employers sponsoring a foreign national employee for a green card. The proposal is not yet final, and DOL is accepting public comments through January 19, 2027. Before any of these changes can apply, DOL must review the public comments and publish a final rule, a process that often takes several months or longer. Once in effect, the changes would make PERM cases longer, more document-heavy, and more closely scrutinized.

What PERM Is

The PERM process is the testing of the U.S. labor market to determine if there are qualified U.S. workers available for a role. It requires an employer to advertise a job (for 30 days) and review U.S. applicants. The employer can rely on that recruitment effort for up to 180 days. The current required steps for advertising are outdated – requiring, for instance, posting in the print version of the local newspaper's Sunday edition.

Key Proposed Changes

Longer recruitment. Job ads would need to run for at least 90 days – or longer, if the employer usually advertises similar jobs longer.

Shortening the life of the recruitment effort. The employer would have to file the PERM application within 30 days of recruitment ending instead of the current 180 days allowed.

Online recruitment replaces newspaper ads. Print ads and the current "menu" of options would be replaced by one set of steps for all jobs: a state job order; the employer's website; at least one job search website; any social media the employer normally uses; and at least one job fair, campus event, or placement office.

Recruit the "same way" as for other jobs. Employers would need to advertise PERM positions using the same channels, terms, and applicant tracking systems they use for non-PERM hiring. Separate PERM-only recruiting would be presumed to be in bad faith and could be referred to the DOJ and EEOC.

More detailed ads. Every ad would need to list duties, minimum requirements, hours, location and remote/hybrid status, the wage or wage range, and other details.

Recruitment report filed up front. Employers would submit their recruitment report and every U.S. applicant's resume with the application. Those are currently required only in the event of an audit.

Stricter layoff rules. Filing would be barred if the employer laid off U.S. workers in the same or a similar job in the area

within the prior two years (up from six months). After filing, any new layoff would require notifying DOL within five business days and offering the job to laid-off workers.

Longer notice posting. The internal notice that apprises the current workforce of the sponsorship would stay posted from just before filing until the green card petition (Form I-140) is decided.

Schedule A eliminated. The fast track for nurses and physical therapists would end, so these positions would need full PERM recruitment.

What This Means for Employers

These changes would make the PERM process much more burdensome for employers. Healthcare employers that rely on Schedule A for nurses and physical therapists would be especially affected. DOL has proposed a 90-day transition: the new rules would apply based on the date the application is filed, so cases filed before the transition ends would still follow the current rules.

Action Items for Employers

Identify 2027 cases now. Employers with PERM filings planned for 2027 may want to consider moving those cases up and completing recruitment under the current rules before the end of Q1 2027, before any new rules take effect.

Request prevailing wages promptly. Recruitment must begin while the prevailing wage is valid, so early requests help keep cases on track.

FOR MORE INFORMATION

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