

S. 744 Title II—Immigrant Visas Subtitle B—Agricultural Worker Program

SEC. 2231-2234 NON-IMMIGRANT AGRICULTURAL VISA PROGRAM

Who may be eligible for a non-immigrant agricultural visa?

- A person who resides in a foreign country and wishes to come to the US for a temporary period to work in an agricultural job
- Must have a written contract for a specified period of time with a designated agricultural employer and the contract must specify wages, benefits and working conditions of such full-time employment in an agricultural occupation

What are the grounds for ineligibility?

- Having violated a term or condition of a previous admission as a non-immigrant agricultural worker in the most recent 3 year period
- Having not obtained successful clearance of security and criminal background checks
- Having departed from the US while subject to an order of exclusion, removal, deportation or voluntary departure and is either outside the US or reentered the US illegally after December 31, 2012 (this may be waived for a spouse, parent or child of a US citizen or LPR - must be 16 years or older and have been physically present in the US for at least an aggregate of three years during the 6 year period preceding the enactment of this section)

What does a non-immigrant agricultural visa offer?

- Allows temporary workers a 3 year visa to work in an agricultural job
- May be renewed one time for a total of 6 years
- After 6 years, the worker must leave the US for at least 3 months and may then reapply

Can a spouse or child be included?

- A spouse or child can only be provided status as a non-immigrant agricultural work if s/he independently qualifies for such status

Can this status be lost or revoked?

- If, after completion of a contract with a designated agricultural employer, a worker is not continuously employed with another designated agricultural worker (no more than 60 days without employment) - waivers may apply if more than 60 days unemployment was due to a natural disaster or an injury
- A non-immigrant agricultural worker may leave the US for up to 60 days but this will be tolled against the 60 day limit
- A contract worker who voluntarily abandons his/her employment or is terminated with cause must leave the US before accepting a new offer of employment (this does not affect a worker who terminates a contract by mutual agreement with the employers)

Similar to a person with RPI status or Blue Card status, these provisions place a great deal of power in the hands of the employers and place workers in an extremely vulnerable and dependent position – there is a process specified for dealing with grievances and labor disputes with the Secretary of Labor, but this could be a very complex and intimidating process.

How many of these visas would be available?

- The number of visas available each year would be determined by multiple factors including: the number of agricultural workers sought the year before and the number of US workers and Blue Card workers who accepted these positions the year before

What provisions are there for the protection of workers?

- There are provisions that mandate minimum hourly wages for various classifications of agricultural work as well as standards for employers paying the piece rate
- There are provisions requiring employers to provide housing or a housing allowance as well as transportation and these expenses cannot be deducted from the workers' wages
- There are also provisions that ensure workers' compensation coverage