

FRAGOMEN

Carthage
34th Annual Swine Conference

TALENT RETENTION
HOW IMMIGRATION HELPS
CARTHAGE MEET
WORKFORCE DEVELOPMENT
NEEDS

August 2024



**WITH
YOU
TODAY**



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AGENDA

- ▶ Visa Categories for Temporary Agricultural Work
- ▶ Green Card Overview
- ▶ Immigration Impact of the Presidential Election
- ▶ Immigration Strategies and Key Take-Aways



VISA CATEGORIES FOR TEMPORARY AGRICULTURAL WORK

SAMPLE IMMIGRATION JOURNEY



F-1 OPT

Up to 3 years



H-1B

6 years



Up to 10+ years

← Employer Sponsorship (typically) Required →

← Uninterrupted Employment Authorization and Ability to Travel, so long as planning early in each process →

F-1 STUDENT STATUS ALLOWING WORK



Curricular Practical Training (CPT)

- ▶ Allows for employment while attending school
- ▶ University decides how/when/whether to grant (discretionary)
- ▶ Employment typically allowed part-time while attending classes, and/or full-time during break periods
- ▶ Employment must relate to the university coursework
- ▶ University endorses I-20 for CPT, which is evidence of work authorization

Optional Practical Training (OPT)

- ▶ Allows for employment upon graduation
- ▶ University assists in filing for an Employment Authorization Document (EAD)
- ▶ Employment (related to degree) authorized for:
 - 1 year
 - 3 years (1 year above plus additional two years) if graduating with a Science Technology Engineering or Math (STEM) degree (see next slide for examples of agricultural-related STEM fields)
 - STEM OPT requires a training plan (Form I-983) signed by employer

AGRICULTURAL RELATED STEM DEGREES



Non-Exhaustive List of fields that may qualify for STEM:

- ▶ Agroecology and Sustainable Agriculture
- ▶ Agricultural Animal Breeding
- ▶ Agricultural and Horticultural Plant Breeding
- ▶ Agricultural Engineering
- ▶ Dairy Science
- ▶ Food Science
- ▶ Plant Sciences
- ▶ Agronomy and Crop Science
- ▶ Horticultural Science
- ▶ Plant Protection and Integrated Pest Management
- ▶ Soil Chemistry and Physics
- ▶ Environmental Science
- ▶ Natural Resource Conservation and Research
- ▶ Water, Wetlands, and Marine Resources Management
- ▶ Forest Sciences and Biology
- ▶ Urban Forestry

Full list is of all STEM degrees can be found here (last updated July 2023):

- ▶ <https://studyinthestates.dhs.gov/stem-opt-hub/additional-resources/eligible-cip-codes-for-the-stem-opt-extension>

WORK VISA OPTIONS

H-1B VISA



Specialty Occupation

- ▶ Requires employer sponsorship in a role that requires at least a bachelor's degree in a specific field (and the foreign national must hold that degree or related)
- ▶ Cap-subject unless exempt (e.g., non-profit)
- ▶ Cap limited to 85,000 H-1B's each year
- ▶ Lottery run in March of each year
- ▶ If selected, employer files H-1B petition
- ▶ Valid for 6-year maximum period of stay (with exceptions)

WORK VISA OPTIONS

TN VISA



Pursuant to United States/Mexico/Canada Agreement (USMCA) – formerly North American Trade Agreement (NAFTA)

- ▶ Available to Canadian and Mexican passport holders
- ▶ Must fill a role in one of the TN occupations (see next slide for examples of agricultural related TN roles)
- ▶ No cap
- ▶ Canadians can apply at the border, and Mexicans must apply for a visa at a US Consulate
- ▶ No maximum period of stay but temporary intent required

AGRICULTURAL RELATED TN ROLES



Non-Exhaustive List of roles that may qualify for a TN:

- ▶ Scientific Technician/Technologist
- ▶ Agriculturist
- ▶ Animal Breeder
- ▶ Animal Scientist
- ▶ Biologist
- ▶ Dairy Scientist
- ▶ Engineer
- ▶ Entomologist
- ▶ Geochemist
- ▶ Horticulturist
- ▶ Land Surveyor
- ▶ Plant Breeder
- ▶ Poultry Scientist
- ▶ Soil Scientist

Full list is of all TN occupations can be found here:

- ▶ https://www.nafsa.org/_/file/_/amresource/8cfr2146.htm

WORK VISA OPTIONS

BASICS OF OTHER WORK VISA CATEGORIES



H-1B1

- ▶ Chilean and Singaporean passport holders

L-1

- ▶ Must have worked for international company for at least 1 year abroad

J-1

- ▶ Exchange visitor

O-1

- ▶ Extraordinary ability

E-3

- ▶ Specialty occupation workers from Australia

SEASONAL WORK VISA OPTIONS

KEY DIFFERENCES BETWEEN H-2A AND H-2B VISAS

	H-2A Visas – Agricultural Workers	H-2B Visas – Non-Agricultural Workers
Housing and food costs required	Yes	No
Wage Requirements	Adverse Effect Wage Rate	Prevailing Wage
Cap on number of workers	No	Yes
Seasonal agricultural work	Yes	No
Seasonal (non-ag), peak-lead, intermittent, or one-time occurrence	No	Yes
Temporary duration of stay	1 year maximum	9 months maximum



GREEN CARD OVERVIEW

IMMIGRANTS



- ▶ “Green card holders” = “Permanent residents” = “Immigrants”
- ▶ Coming to U.S. permanently
- ▶ Numerically limited
 - Visa bulletin
 - Priority date
- ▶ Can become U.S. citizens after 3 - 5 years

FAMILY-BASED

PERMANENT RESIDENCE



Quicker Process: Immediate relatives (spouses, minor children who are unmarried & parents of U.S. citizens)

Slower Process: Other close family members of citizens or permanent residents can sponsor you, including:

- Unmarried sons & daughters of citizens (over age 21)
- Spouses & children of lawful permanent residents (LPRs or green card holders) & unmarried sons/daughters of LPRs
- Married sons & daughters of citizens
- Brothers & sisters of citizens

EMPLOYMENT-BASED PERMANENT RESIDENCE

EB-1: Priority Workers

EB-2: Advance-degree professionals & aliens of exceptional ability

EB-3: Professional, skilled & unskilled workers* (*labor certification required)

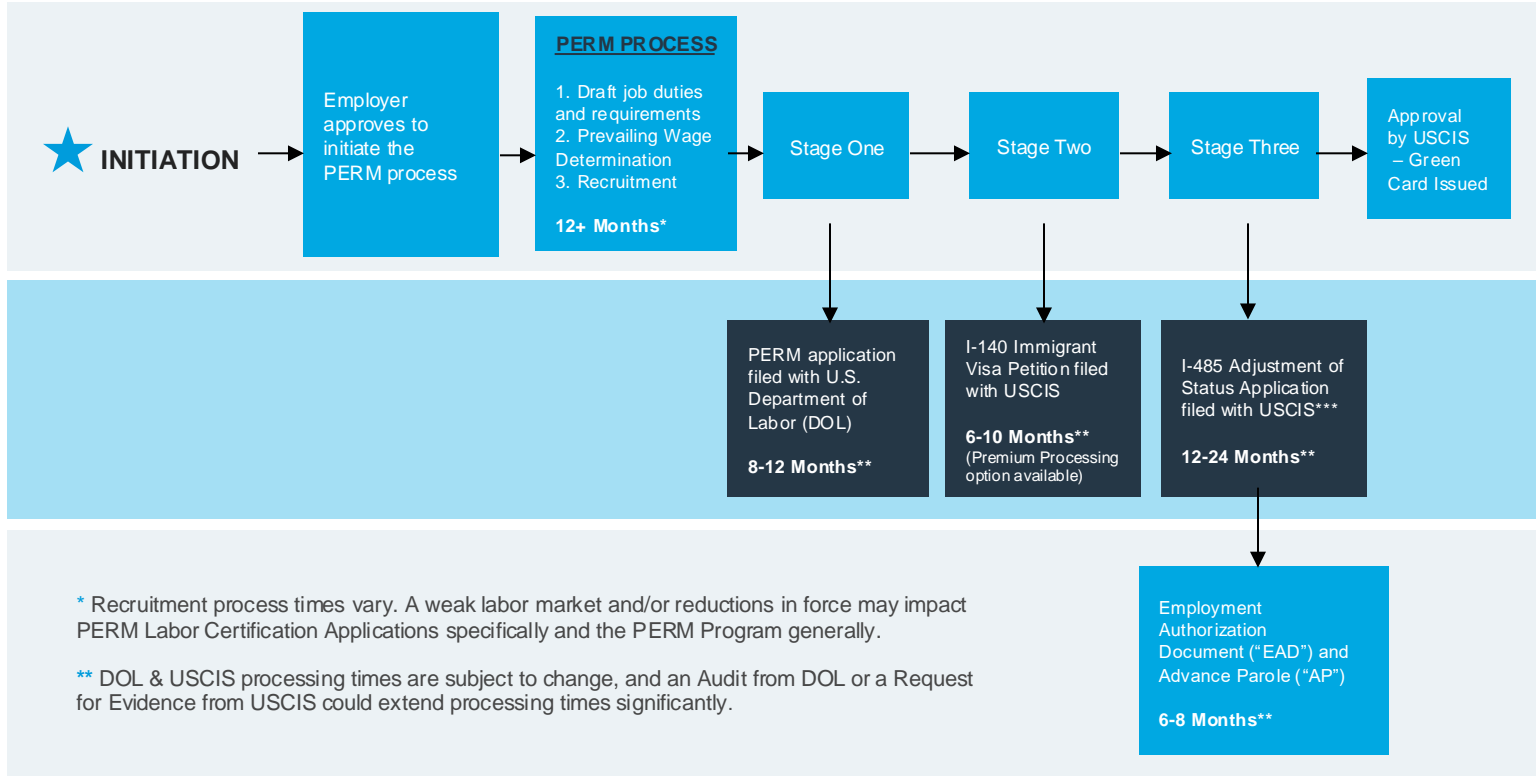
EB-4: Special Immigrants

EB-5: Employment Creation (Investors)



PERMANENT RESIDENCY PROCESS

PERM (TRADITIONAL) PROCESS





EB-2 NATIONAL INTEREST WAIVER

- ▶ Aliens seeking a national interest waiver are requesting that the Labor Certification be waived because it is in the interest of the United States.
- ▶ Agricultural positions may be considered in the national interest, particularly if the work is considered important to a US government agency (e.g., USDA)
- ▶ Those seeking a national interest waiver may self-petition (they do not need an employer to sponsor them) and may file their labor certification directly with USCIS along with their Form I-140, Petition for Alien Worker.
- ▶ 3 Criteria:
 1. The foreign national's proposed endeavor has both substantial merit and national importance.
 2. The foreign national is well positioned to advance the proposed endeavor.
 3. On balance, it would be beneficial to the United States to waive the job offer and labor certification requirements of the EB-2 category.
- ▶ Great category for STEM roles



IMMIGRATION IMPACT OF THE PRESIDENTIAL ELECTION

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AREAS OF FOCUS



Areas of Impact:

- ▶ Immigration Adjudications
- ▶ Risk and Compliance
- ▶ Humanitarian Programs



IMMIGRATION STRATEGIES

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KEY TAKE-AWAYS

- ▶ There are many work visa options and permanent residence options available for international workers at agricultural companies.
- ▶ Immigration remains a very dynamic field, and regulations are subject to change in response to changes in the administration.
- ▶ Immigration enforcement will remain a top priority following the presidential election.



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THANK YOU!