



## Frequently Asked Questions about AgJOBS and Earned Legalization

### **What is AgJOBS?**

AgJOBS is a proposed immigration law. Its full name is the Agricultural Job Opportunities, Benefits and Security Act of 2007 and it is bill number S. 340 in the Senate and H.R. 371 in the House of Representatives. AgJOBS is a compromise that was reached after several years of tough negotiations between the United Farm Workers (UFW), major agricultural employers, and Members of Congress. **Remember: AgJOBS doesn't become law unless both the House and the Senate approve it and the President signs it.**

If AgJOBS becomes law, hundreds of thousands of farmworkers could come out of the shadows to earn legal status. Farmworkers first could earn temporary resident status (a "blue card") and then permanent resident status. With permanent legal status, farmworkers would be better able to demand better wages and working conditions. AgJOBS also would provide American farmers with a legal labor force.

### **What would AgJOBS do?**

If this proposal becomes law,

- (1) it would create an earned legalization program that would enable many farmworkers to become temporary residents of the U.S. ("blue card" status) based on their past work experience. Farmworkers with blue cards could then go on to earn permanent resident status (sometimes known as "green card" status).
- (2) it would change the existing agricultural guest worker program (known as the H-2A temporary foreign agricultural worker program).

### **Who is eligible for legalization under AgJOBS?**

The legalization program would allow farmworkers to obtain temporary resident immigration status (called "blue card" status) if they demonstrate that they have been working in the U.S. in agriculture (either without papers or as an H-2A guestworker) for at least 863 hours or 150 days during the 24-month period ending December 31, 2006, pay application fees and a \$100 fine, and meet other immigration-law and homeland-security requirements (including that they have not been convicted (found guilty) of a serious crime (known as a felony), 3 minor crimes (called misdemeanors), or one offense that involves bodily injury, threat of serious bodily injury or harm to property in excess of \$500.

Temporary residents could work outside of agriculture, but if a worker stops working in agriculture altogether after getting his temporary status, she or he would lose legal status and could be deported. Once the worker gains permanent resident status, his or her spouse and minor children would get green cards too.

**What would I have to do or how long would I have to wait under AgJOBS to get my green card?**

After you get your blue card, you would have 3 to 5 years to complete the work requirements for your permanent residency. If you don't do this, your temporary residency (blue card) will expire and you (and your family) can be deported. Let's look at what you would have to do (after you get your temporary status) to become a permanent resident.

After becoming a temporary resident, you would have to

- Work in agriculture for at least
  - 100 days per year for each of five years during the five-year period beginning on the date of enactment of the Act; OR
  - 150 days per year for each of 3 years during the three-year period beginning on the date of enactment of the Act; OR
  - 100 days for one year and 150 days for 3 years during the first 4 years of the program.
- Pay a \$400 fine and application costs; and
- Show payment of income taxes (or that you don't owe any taxes or that you set up a payment plan) by the date of adjustment to lawful permanent status.

Conviction of a felony, 3 misdemeanors, or a single crime that involves bodily injury, threat of serious bodily injury or injury to property in excess of \$500 would also end "blue card" status. Also, if there's evidence that you lied on the application for temporary status, your application for permanent residency would be denied.

**How is temporary residency status ("blue card" status) under AgJOBS different than lawful permanent residency (sometimes known as a "green card")?**

There are many differences between a "blue card" and a "green card." One big difference is that temporary residency ("blue card" status) is just that - TEMPORARY, whereas lawful permanent residency status is generally a permanent status (with some limitations). Temporary residency is just the first step in the process of becoming a permanent resident of the US. With your blue card, you could work in any occupation, as long as you continue to do the required agricultural work each year. You could also go and come across the U.S. border.

**What benefits are available for the family of a farmworker? Could a spouse and kids join the worker while he or she is working here?**

Once the farmworker becomes a temporary resident, his or her spouse and minor children (under 21) who are already living in the US may be granted "derivative" legal status. Derivative

family members can remain in the U.S. and are not removable. The derivative spouse may apply for a work permit and the derivative spouse and minor children may also travel outside of and return to the U.S. Once the worker becomes a permanent resident, they would also become permanent residents (as long as they meet other requirements under immigration law - like not being convicted of certain crimes.) Minor children who become adults during the process are covered too.

If your family is back in Mexico, the situation is different. They would not be allowed to come to the US while the farmworker is just a temporary resident. However, when the farmworker gets a green card, he or she could petition for the spouse and minor children to get green cards as well.

**What if I've worked several different jobs during that period, including agricultural work? Would I still qualify for the AgJOBS program?**

That depends on how much time you've worked in agriculture. Let's look at the rules in detail. To apply for temporary residence, you would have to:

- Apply through a government-approved organization, a government recognized immigration practitioner, or a licensed attorney;
- Show that you worked in agriculture for at least 863 hours or 150 days during the 24-month period ending December 31, 2006;
- Pay any application fees and a \$100 fine; and
- Show that you meet certain security requirements (for example, not having certain criminal convictions).

If you can show that you've worked the required time in agriculture and meet the other requirements, you would be eligible for temporary resident status.

**What counts as agricultural work for purposes of satisfying the AgJOBS legalization requirements? Would it just be working in a field, orchard or nursery? Would this also include working in a packing house?**

Most agricultural work counts if you are working on a farm or ranch or other place where fresh produce is grown or livestock is raised. Work at packing houses, livestock processing plants and nurseries ordinarily would NOT count as "agricultural" work under this program, but employees at these businesses could be eligible if the plants or animals were packed or processed on the farm or ranch where they were raised.

**I've been working as a farmworker for the last 10 years in different states. I've been working under a false name in some places. Also, most of the employers I've worked for have paid me in cash and I don't have pay stubs to prove that I've been working. What can I do to become part of the program if the law passes?**

AgJOBS is designed to prevent false applications but was written with the understanding that gaining proof of past employment as an undocumented farmworker often will be very difficult. In cases like this, you should get help from a local legal services program. If you don't have any pay stubs or other written proof, you could prove that you worked in agriculture by getting

sworn written statements from your employers or your former co-workers. If you have something in writing but with someone else's name on it, you would have to prove that you used that name. Maybe you have an old ID with that name, or other records with that name, or someone can swear in writing that you are the person who used that name. The important thing is to get help from a legal services provider to put this paperwork together. Also, even though AgJOBS is not a law yet, it's a good idea to start collecting and saving documents that could help you prove that you worked in agriculture at least 150 days or 863 hours during 2005 and 2006, in case AgJOBS becomes law.

**When does AgJOBS become a law?**

Remember, AgJOBS is just a proposal. It is not a law yet and there is no guarantee that it will become a law. In order to become a law, both the House and the Senate have to pass it the President has to sign it.

**How can I find out if AgJOBS becomes a law? Who should I contact?**

If this proposal becomes a law, it would be reported in newspapers and on radio and TV. If you're not sure about what you hear on TV, you can always call your local consulate or legal services provider.

If you have access to the internet, you can also check for updates on AgJOBS by visiting the Farmworker Justice website at [www.fwjjustice.org](http://www.fwjjustice.org) and the United Farm Workers website, [www.ufw.org](http://www.ufw.org).