

8 C.F.R. § 214.2(h)(16) – Temporary employees

(16) *Effect of approval of a permanent labor certification or filing of a preference petition on H classification* —(i) *H-1B or H-1C classification*. The approval of a permanent labor certification or the filing of a preference petition for an alien shall not be a basis for denying an H-1C or H-1B petition or a request to extend such a petition, or the alien's admission, change of status, or extension of stay. The alien may legitimately come to the United States for a temporary period as an H-1C or H-1B nonimmigrant and depart voluntarily at the end of his or her authorized stay and, at the same time, lawfully seek to become a permanent resident of the United States.

(ii) *H-2A, H-2B, and H-3 classification*. The approval of a permanent labor certification, or the filing of a preference petition for an alien currently employed by or in a training position with the same petitioner, shall be a reason, by itself, to deny the alien's extension of stay.

<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=6fc7753391439e4ea85b8f4e607322b6&rgn=div5&view=text&node=8:1.0.1.2.18&idno=8#8:1.0.1.2.18.0.1.2> (Accessed 10/11/2012)