



**LEGAL
NOTES**

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Shortening the green card process

Labor certification, which is the first step in applying for permanent resident status based on employment, now takes two to three years in many states. In New York and New Jersey, the wait is more than three years. This is due to increasing workload and staff shortage in the Department of Labor.

The delay causes hardship, especially to those whose non-immigrant status have reached their limit. If they remain beyond their authorized stay, they may be subject to the three year and ten year bar to admissibility.

There's no way to reduce the processing time. It is known as RIR, Reduction in Recruitment. This simply means that if your case is accepted for RIR processing, it will undergo minimal scrutiny. Instead of the 2-3 year wait, the case will be adjudicated in six months or less.

But one should be careful when submitting a case for RIR processing. If RIR is denied, the application will be returned to the State Labor Office for regular processing, in the order in which it was received.

Cases may be accepted for RIR or fast track processing, if they involve occupations for which there are little or no availability.

An example of such shortage occupation often cited is specialty food cook. In some areas, live-in domestics and certain computer and engineering occupations may also qualify. The regulations state that any occupation, except Schedule B occupation (mostly semi-skilled or unskilled) may qualify for RIR.

The application should have no restrictive requirement. Only duties that are normal for the position, in accordance with existing rules, should be included. The application should also list the prevailing wage for the occupation.

Finally, the petitioning employer should prove that it adequately recruited through sources normal to the occupation and industry within the previous six months. These sources include newspaper advertisement, job fairs, recruitment agencies, internal recruitment, colleges and labor unions. Regardless of the recruitment source, the employer should be able to demonstrate that it adequately tested the labor market and it used its good faith efforts.