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H-2 Guest Workers and Florida Sugar

Florida agriculture is unlike agriculture elsewhere because most of the state’s crops are harvested during the winter months, when crop production in other states is low but imports from countries with warmer weather are high. As a result, Florida agriculture is more protectionist than US agriculture, which tends to embrace free trade because US agriculture is a net exporter of farm commodities.

Because farm employment peaks during the winter months, many observers expected Florida farm employers to have an easy time attracting jobless US farm workers from other states. However, farm workers have not moved to Florida. Instead, Florida was the state most dependent on H-2 workers between the mid-1950s and mid-1990s, and is the state most H-2A job certifications today.

History

Between the 1950s and 1990s, Florida sugarcane accounted for over half of US jobs certified to be filled by H-2 (1952-86) and H-2A (after 1986) workers. Sugar cane production began in the 1930s in the south-central Florida when large landowners realized that they could grow the perennial grass in the area’s subtropical climate south of Lake Okeechobee in the Everglades Agricultural Area.

Obtaining cane cutters was difficult because of the debt peonage that sometimes occurred. Allison T. French of the US Employment Service in West Palm Beach reported in the early 1940s that “Negro labor in Florida will not work for the Sugar Corporation...[because] Negroes were occasionally beaten for attempting to leave the job when they owed debts at the company’s commissary, and others were sometimes required to work as many as 18 hours a day at cane cutting.”

Instead of US workers, the sugar mills that handled the harvesting of the cane obtained workers from sugar-producing islands in the Caribbean, especially Jamaica, which sent 16,000 guest workers to the US to fill farm jobs in 1944. After 1952, farm guest workers were admitted under the H-2 program that was created by Section 101(a)115(H)ii of the 1952

Sugarcane is Planted on 400,000 Acres of the Everglades Agricultural Area
Omnibus Immigration and Naturalization Act (McCarran Walter Act or PL 82-144). In the 1980s, Florida’s sugar mills employed about 10,000 H-2 cane cutters a year.

**Sugarcane**

Sugar cane is a perennial grass native to Asia that can grow to a height of eight to 12 feet in tropical and semitropical environments. Florida produces over half of the US sugar from cane, Louisiana a third, and Hawaii and Texas the rest.

Green cane is cut into short segments and planted in the fall in rows five feet apart. The first harvest a year later is the plant-cane crop, the second harvest is called the first ratoon or first stubble, and the third harvest is the second ratoon or second stubble.

Cane yields averaged 32 tons an acre from the 1960s through the 1980s, and 36 tons an acre in 1990-91. The sugar is in the cane’s stalk, which is 80 percent water, and the percentage of sugar is greatest at the bottom of the stalk, so cane is cut close to or “three fingers” from the ground. Cane fields are burned before harvesting to eliminate the leaves, so that the mills that grind cane stalks deal with less trash.

Cane deteriorates rapidly after harvest, so mills are nearby to grind the stalks and extract the juice. The juice is clarified, boiled, and crystallized, which produces a thick syrup. When the syrup reaches the molasses stage, it is dropped into centrifuges to be spun into raw sugar crystals that are 96 to 99 percent pure. Refineries wash raw sugar, melt it into syrup, filter the syrup, and dry and package the resulting sugar. Most sugar refineries are located near ports to give them easy access to imported sugar for blending.

**Labor**

Almost all of Florida’s sugar cane was cut by 10,000 Jamaican guest workers in the 1980s. Workers were recruited in Jamaica during the spring months, the mills submitted requests to DOL for certification to employ H-2 workers in July, and H-2 workers arrived in October. Wearing shin and hand guards, workers with machetes cut the cane stalks close to the ground.

Cutters worked under a piece or task rate system. The mills estimated the tonnage of cane in each field and set a “task rate” that required workers to cut 100 to 200 feet of cane in two adjoining rows (a cut row) in one hour. The task rate varied by field, but was determined primarily by the yield of cane and adjusted for factors such as how much cane was bent over rather than straight. Workers had to “make the task” by cutting the specified number of feet in an hour or they could be “checked out” for being too slow.

Workers typically began to cut at 6 to 7am from two adjoining rows and threw the stalks left or right into a
“pile row” that was shared with the worker cutting in the next cut row to facilitate picking up the harvested cane. Ticket writers recorded each worker’s start and stop times and the number of feet cut on a cutter’s ticket. Workers typically cut one-fourth of a cut row in six to seven hour workdays.

Lead men or foremen were ex-cutters with H-2 visas who monitored the quality of the cutting and enforced the task rate system by checking out slower cutters, who had to sit on the bus until the rest of the crew stopped cutting cane. After three check outs, workers could be fired and returned to Jamaica. Most check outs occurred at the beginning of the season, and many involved cutters who cut more than a ton an hour, but less than 1.5 tons per hour, the productivity standard expected by the mills.

**Tons and Feet**

An acre yielding 40 tons of sugar cane has about 40,000 stalks that each weigh two pounds. The mills estimated cane yields accurately, and set task rates that required workers to cut an average of 1.5 tons an hour, three times the typical 0.5 tons an hour cutting rate in Jamaica. Fauconnier’s global survey (1993, 119) estimated cane cutters averaged four tons of cane a day, or a half ton an hour.

There are 43,560 square feet in an acre. Florida cane was planted in rows five feet apart, so a field yielding 43.56 tons an acre has a ton of cane in every 100 feet of two adjacent rows (the cut row) that covers 1,000 square feet. Setting a task rate of 150 feet an hour in such a field is setting a productivity standard of 1.5 tons an hour, since feet of cane cut equals tons of cane cut, and tons of cane cut equals feet of cane cut.

For comparison, a football field is 100 by 40 yards or 120 feet or 36,000 square feet or about 0.8 of an acre. A worker who cuts 1.5 tons of cane an hour or 12 tons a day in a field yielding 35 tons an acre would require about three days to cut a football field of cane. Most sugar cane fields were about 25 acres, and harvested by crews of 50 to 100 workers. Mills typically ground 20,000 to 30,000 tons of cane a day. Supplying a 20,000 ton mill with workers who cut an average 12 tons a day required almost 1,700 cutters.

The cane cut by each worker was not weighed, so the mills argued that cutting cane did not satisfy DOL’s definition of a piece rate wage, since DOL defined piece rate wage because the work done by individuals was not measured or weighed. Using this logic, DOL did not require the mills to reduce the task rate or productivity standard as the AEWR rose, so that the productivity standard or the average tons of cane cut that had to be cut per hour rose slightly over time.

The Adverse Effect Wage Rate was $5.30 an hour in the late 1980s, meaning that cane cutters earned at least $5.30 an hour. Most workers reported earning $5,000 to $6,000 during the season, about $1,000 a month, and saved 20 to 30 percent of their earnings.

**Iron Triangle Suits**

The sugar mills were required to advertise for US workers, and their job orders included the statement that “a worker would be expected to cut an average of eight (8) tons of harvest cane per day throughout the season.” Workers who failed on three days to cut fast enough to “make the task” of cutting an average 1.5 tons an hour could be terminated.
Class-action suits were filed on behalf of cane cutters in 1989 asserting that the job order’s eight-ton productivity standard and the $5.30 an hour AEWR promised cutters a piece rate of $5.30 per ton, and that the cutters were owed back wages of $1.55 a ton because the mills budgeted and workers received an average $3.75 a ton. The worker suits demanded $100 million in back wages and interest. A Florida state judge in August 1992 agreed, and ordered the mills to pay each cutter $1,000 to $1,500 in back wages.

In response, US Sugar adopted a “Labor Peace” program that acknowledged that the task rate system was a piece rate, paid $5.6 million to settle the suits, and promised to pay cutters $5.10 per net ton, after trash was removed from the stalk, and required workers to cut at least one gross ton of cane an hour. The other mills appealed the judge’s ruling, and jury trials were held to determine whether the contract was “clear and unambiguous” in promising a $5.30 a ton piece rate to cutters.

Worker attorneys argued that the combination of the $5.30 AEWR and the one ton per hour productivity standard created an iron triangle that required a $5.30 a ton piece rate. Attorneys for the mills made three major counterarguments. First, they cited DOL’s conclusion that task rates are not piece rates because each worker’s output was not measured or weighed. Second, Jamaican cutters testified that their work assignments were made in feet, not tons. Third, the mills did not pay a uniform $3.75 per ton to harvesters. They paid slightly more in fields with recumbent or flattened cane and slightly less when the cane was straight and easier to cut.

Since the job orders did not explicitly promise a piece rate of $5.30 a ton, juries in cases involving the Atlantic, Okeelanta, and Sugar Cane Growers Cooperative mills agreed that the mills did not promise $5.30 a ton, and the cutters did not get back wages. There were questions about the iron triangle’s productivity standard. Was it a minimum or average standard? Over what time period was the standard enforced, an hour, day, a pay period or the season? The mills stressed that workers were guaranteed the AEWR of $5.30 an hour, and they received $5.30 an hour or more.

The litigation over worker wages prompted harvest mechanization. All of Florida’s sugarcane was harvested mechanically after the mid-1990s.

There were several lessons from guest workers and sugar. First, the iron triangle gave employers extreme control over workers who had often gone into debt to obtain H-2 visas. Workers who did not know exactly how many tons per hour they must cut to keep their jobs were motivated to work hard and fast from the time they arrived in Florida to keep their jobs. The mills checked out or sent home 50 or more of the 10,000 workers early in the season for being too slow, and the threat of being checked out encouraged all cane cutters to work fast from the start of the season, reducing the number of cutters required.

Second, the mills argued that cane had to be hand cut because of the unique muck soil conditions. Cane harvesting in most high-wage countries has long been mechanized, and Florida’s mills quickly discovered that balloon tires made machine harvesting on muck soils feasible, while adjustments to cutting heads reduced the tendency of harvesting machines to pull plants out of the ground.

Third, decades of reliance on guest workers left the “sugar cities” of Pahokee, Belle Glade, and South Bay among the poorest in the US. A Palm Beach Post editorial on December 11, 2005 demanded that the Fanjul family, major beneficiaries of US sugar and labor migration policies, contribute to improving life in the state’s sugar cities.

Harvesting Sugar Cane Mechanically

Source: https://www.amscl.org/sugarcane-harvest-doing-well-at-halfway-point/
H-2 Costs

George Sorn of FFVA described the farm labor market in Florida sugar-cane in 1981-82, when almost 11 million tons of cane was hand cut from 320,000 acres between November and March. Sorn testified (p51) that cane cutters earned an average $200 a week for 20 weeks and an average $4,000 each.

FFVA was the agent for the sugar mills seeking H-2 workers, and reported that transportation between Jamaica and Florida accounted for a third of total costs of $622 per worker, followed by $1 a day for housing or $140 for the average number of days that H-2 workers were in Florida, and another $140 for the $1 a day cost of transportation between worker housing and cane fields.

Florida employers of H-2 workers do not pay Social Security or unemployment insurance taxes on the wages of H-2 workers. For cane cutters earning $4,000, these payroll tax savings were $474, making the extra cost of H-2 over US workers (who are not provided with housing or transportation services) $148 per worker. The take home pay of US cane cutters would be lower because employers would have to take out $266 in social security taxes from their earnings.

Sorn testified that cane cutters are paid “on a piece rate incentive system.” (p53). Workers received daily task rate assignments, meaning that they were paid a certain amount for cutting 100 or 150 feet of cane. Employers but not workers knew how many tons of cane was in 100 or 150 feet, and they set the task rate so that workers had to cut an average 1.5 tons an hour. The mills budgeted $3.75 a ton to have cane hand cut.

Employers use piece rate wages to provide an incentive for workers to work fast without close supervision. Piece rate earnings are typically 15 to 25 percent more than the guaranteed minimum wage to incentivize workers.

The AEWR in 1981-82 was $4.69 an hour when the federal minimum wage was $3.35. Sorn stressed that jobless US workers were not prepared to accept cane cutting jobs despite the higher-than-minimum wage AEWR, and that farm employment peaks for most commodities in Florida at the same time, making it hard for workers to move from citrus or vegetable harvesting to cane cutting.

Sorn recommended eliminating the AEWR and guaranteeing workers the higher of the federal or state minimum wage or the prevailing wage and allowing employers to provide H-2 workers with a housing allowance rather than free housing. Sorn called for three-year “term certifications.” After employers were certified for three consecutive years, they would not have to advertise for US workers.

Four decades later, the same issues are being debated. How much effort should be required of US employers to find US workers? Must employers of foreign guest workers and out of area US workers provide free and approved housing, or can they offer workers a $1 to $2 an hour housing allowance and expect temporary employees to find their own housing? Finally, what is the AEWR that must be paid to guest workers to protect US workers from adverse effects, and how should the iron triangle between government-set AEWRs, employer-set piece rates, and productivity standards be regulated?

The 1981 Senate hearing that included Sorn’s testimony also featured a discussion of employer efforts to discourage US workers from applying for jobs that employers want to fill with guest workers. Agricultural economist Jim Holt advised
farmers to require farm work experience in order to avoid encouraging jobless US workers to apply for a job they may not like. Holt advised that job descriptions highlight the difficulty of farm work, including heat and cold and mosquitoes and other insects.

Holt helped Idaho farmers to form the Snake River Farmers Association, which converted many unauthorized irrigators into H-2 guest workers for the 1986 season. SRFA members hired 870 H-2 workers and 189 US workers in 1986, including nine US workers who finished the season. In 1987 SRFA members hired 1,800 H-2 and 300 US workers. Most irrigators worked a split shift, from 5am to 9am and again from 4pm to 8pm, moving 70 pound sections of pipe sixty feet for 10 cents a pipe and earning about $5 an hour when the minimum wage was $3.50.

The Washington Post described one Idaho farmer who refused to hire a
US worker who traveled from California; the SRFA said that the man had family problems and returned to California, while the worker said the employer told him he was not needed. Another Idaho farmer hired an 18-year old US worker, segregated him from other workers, and assigned him to pick up rocks, prompting him to quit. The stories of the US workers who were not hired or quit were very different from the reports submitted by SRFA employers to DOL. The US workers said they were not wanted, while the SRFA members said the workers quit or were fired for cause.

After the Bracero Program Ended in 1964, Most Farm Guest Workers were Jamaicans

Foreign Workers Admitted for Temporary Employment in U.S. Agriculture by Year and Nationality, 1942-1993

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a Due to carryover of workers from year to year, the number admitted is sometimes less than peak employment.
b Includes Baharians.

data from 1942 through 1947 were obtained from reports prepared by the U.S. Department of Agriculture.
d Data from 1948 through 1972 were compiled from administrative reports of the Manpower Administration, U.S. Department of Labor.
e Admitted under Public Law 78.
f The 1977 total does not include 909 aliens admitted by INS without DOL certifications; 1978 total does not include 148 workers admitted by INS.
g Employer applications filed prior to June 1, 1987 were processed according to the requirements of the H-2 program. Interim final regulations for the H-2A program, mandated by the Immigration Reform and Control Act of 1986, were promulgated on June 1, 1987, and all applications filed on or after that date were processed according to the H-2A program procedures. The 1987 total consists of 11,424 H-2 and 13,108 H-2A certifications.

References


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