Rural Migration News

Blog 300

SEPTEMBER 2022

The H-2A Program in 2020

The H-2A program allows US employers who anticipate labor shortages to be certified by the US Department of Labor (DOL) to employ guest workers (1) if they try and fail to recruit US workers and (2) if the employment of H-2A workers does not adversely affect US workers. The recruitment test involves farmers posting their jobs and failing to attract US workers, and the adverse effect test requires employers to pay an Adverse Effect Wage Rate that is typically higher than federal, state, and local minimum wages.

DOL certified about 9,000 farm employers to fill over 10 percent of the average employment of 1.1 million on US crop farms in FY20 with 220,000 H-2A workers who were in the US an average six months. At its peak in the mid-1950s, the Bracero program admitted about 455,000 Mexican workers, and they were 20 percent of US seasonal farm workers.

US farm employment is concentrated by area, commodity and size of farm, so that large farms producing fresh fruits and vegetables in CA, WA, FL and a few other states account for over half of US farm worker employment and wages. H-2A employment is similar and different. Two-thirds of H-2A guest workers are employed on fruit and vegetable farms, but many are brought to farms by labor contractors. CA, OR, and WA account for half of US farm employment, but only 20 percent of H-2A jobs certified.

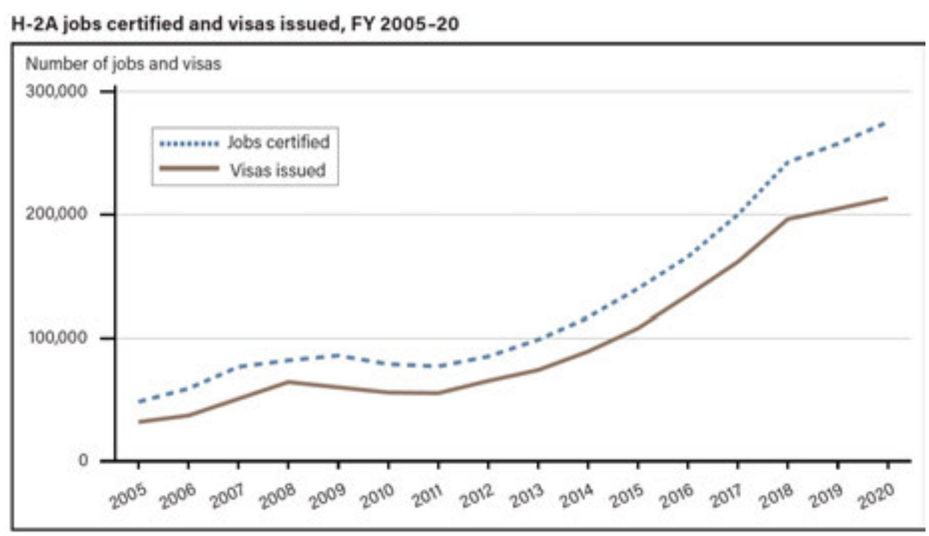
Commodities such as apples and oranges are far more dependent on H-2A workers than peaches and table grapes. Most large farms hire both US and H-2A workers directly, while some smaller farms and farm labor contractors hire only H-2A workers.

Growth and Concentration

The major H-2A story is growth. The number of jobs certified to be filled by H-2A workers rose five fold between FY05 and FY20, and has continued to increase, likely topping 350,000 in FY22 or over 15 percent of average employment on US crop farms. The 280,000 H-2A workers in 2022 are in the US an average six months.

An analysis of 13,552 employer certifications in FY20 found that six states each had more than 10,000 jobs certified to be filled by H-2A workers and collectively accounted for 55 percent of all H-2A certifications: Florida, Georgia, Washington, California, North Carolina, and Louisiana. Farm labor contractors accounted for 44 percent of H-2A jobs certified in FY20.

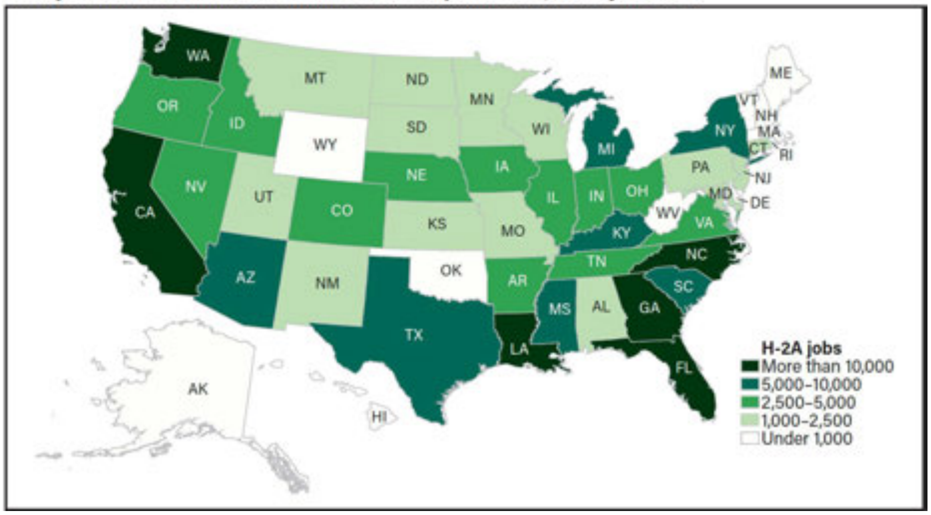
About 80% of the H-2A Jobs Certified Result in the Issuance of H-2A Visas



Notes: Around 80 percent of H-2A certified jobs result in visas issued to H-2A workers. Some employers do not follow through to hire the workers, and some H-2A workers fill two or more certified jobs. H-2A certified jobs and visas issued in 2021 were 317,000 and 258,000, respectively.

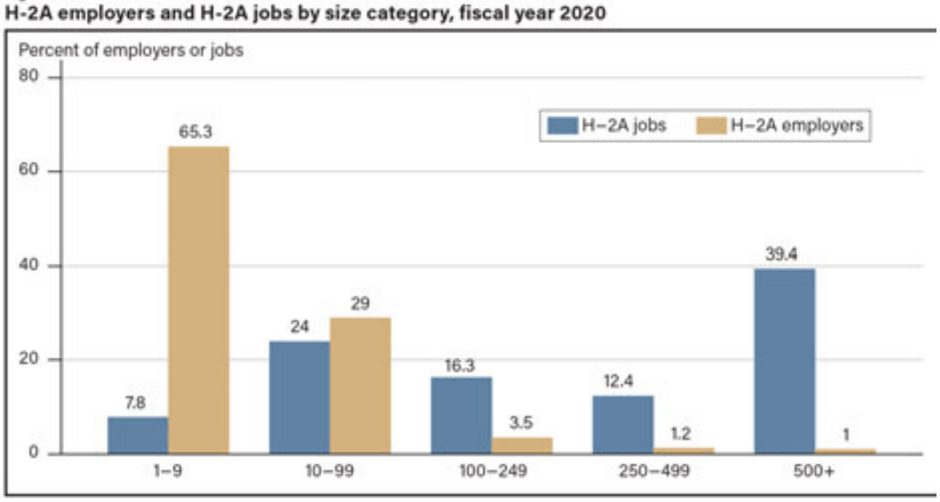
Six States Accounted for 55% of H-2A Jobs in FY20

H-2A jobs and H-2A share of total hired labor expenditures, fiscal year 2020



90 H-2A Employers, Each Certified for 500 or More H-2A Workers, Accounted for 40% of All H-2A Jobs in FY20

H-2A employers and H-2A jobs by size category, fiscal year 2020



Six of the Top 10 H-2A Employers in FY20 were FLCs

Characteristics of top 10 H-2A employers, fiscal year 2020

Employer name	Jobs certified	Contract value (avg. $)	Wage bill (mil. $)	Primary State	Percent of State H-2A jobs	Employer type	Filer type
NCGA	10,650	13,995	149	NC	48	Association	In-house
Fresh Harvest	5,326	10,590	56	CA	15	FLC	In-house
Wafla	4,358	14,009	61	WA	16	Association	In-house
Foothill Packing	3,199	14,959	48	AZ	19	FLC	Lawyer
Overlook Harvesting	3,159	8,188	26	FL	3	FLC	In-house
Farm Op Kuzzens H2A	2,998	7,839	24	FL	4	FLC	Association
Rancho Nuevo Harvesting	2,864	8,677	25	CA	8	FLC	Lawyer
Peri & Sons Farms	2,623	12,500	33	NV	73	Fixed site	In-house
Temp Labor	2,252	13,270	30	FL	6	FLC	Agent
Zirkle Fruit	2,206	13,225	29	WA	8	Fixed site	In-house

NCGA = North Carolina Growers Association. avg. = average. mil. = million. FLC = farm labor contractor. NC = North Carolina. CA = California. AZ = Arizona. FL = Florida. NV = Nevada. WA = Washington.

Only a quarter or 500,000 of the 2.1 million US farms have expenses for hired labor, and only five percent of US farms or 100,000 are enrolled in state unemployment insurance systems. Regardless of the measure of farm labor, a relative handful of farms account for most farm employment. Fewer than 10,000 US farms accounted for over half of COA labor expenses in 2017, and 1,600 of the US farms enrolled in UI in March 2020 accounted for a third of the 1.1 million US farm worker employment in that month.

H-2A employment is similarly concentrated. Five percent of the 9,000 unique H-2A employers, each certified to hire 100 or more H-2A workers, accounted for two-thirds of all H-2A certifications in FY20. The largest one percent of H-2A employers, about 90 employers including FLCs, were each certified for 500 or more H-2A workers and accounted for 40 percent of all H-2A job certifications.

The ten largest H-2A employers in FY20 accounted for 14 percent of all H-2A certifications. These top 10 H-2A employers included two associations, two fixed-situs employers, and six FLCs. Foothill Packing, a FLC in the Salinas area that provides crews to harvest lettuce and other leafy greens, offered $15,000 contracts, while Rancho Nuevo Harvesting, a FLC that provides berry picking crews in the Santa Maria area, offered $8,700 contracts. When deciding on contract length, employers consider the likely duration of work in the commodity and area where they operate.

California and Florida

There are several ways to measure farm employment, including labor expenses from the Census of Agriculture and average employment from the Quarterly Census of

Piece Rates From a 2022 Certification for Picking Strawberries in Santa Maria, California

A.9. Additional Crop or Agricultural Activities and Wage Offer Information

Crop ID	Crop or Agricultural Activity	Wage Offer	Per	Piece Rate Units/Special Pay Information
	Strawberry organic, freezer ground	$ 02 . 65	Piece Rate	Per Box (20x16x14); estimated hourly rate is $18. Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors.
	Strawberry organic, freezer machine	$ 02 . 50	Piece Rate	Per Box (20x16x14); estimated hourly rate is $19. Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors.
	Strawberry conventional, freezer ground	$ 02 . 65	Piece Rate	Per Box (20x16x14); estimated hourly rate is $18. Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors.
	Strawberry organic, juice ground	$ 01 . 65	Piece Rate	Per Box (20x16x14); estimated hourly rate is 18.Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors.
	Strawberry organic, fresh market ground	$ 01 . 65	Piece Rate	Per Box (20x16x14); estimated hourly rate is $18/hr. Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors.
	Strawberry conventional, freezer machine	$ 02 . 50	Piece Rate	Per Box (20x16x14); estimated hourly rate is $19. Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors.
	Strawberry conventional, juice ground	$ 01 . 65	Piece Rate	Per Box (20x16x14); estimated hourly rate is $18. Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors.
	Strawberry conventional, juice machine	$ 01 . 50	Piece Rate	Per Box (20x16x14); estimated hourly rate is $19. Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors.
	Strawberry conventional, fresh market machine.	$ 01 . 50	Piece Rate	Per Box (20x16x14);estimated hourly rate is $19. Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors.
	Strawberry organic, fresh market machine	$ 01 . 50	Piece Rate	Per Box (20x16x14); estimated hourly rate is $19. Estimated hourly earnings for piece rates are not guaranteed. Such rates vary by individual, weather, commodity, and quality, among other factors. .

California and Florida had Fewer than 500 of the 9,000 H-2A Employers in FY20, but ¼ of the H-2A Jobs

Table 1
H-2A applications, jobs, and employers, fiscal year 2020

	U.S.	CA	FL	Other States
Applications certified	13,549	713	586	12,250
Total jobs certified	275,415	25,453	39,064	210,898
FTE jobs	127,136	12,716	17,630	96,790
Number of H-2A employers	8,934	223	261	8,450
Number of end-user farms	17,840	1,867	1,134	14,839
Number of worksites	87,104	14,220	8,789	64,095
Crop share of H-2A jobs (percent)	96	97	99	96

U.S. = United States. CA = California. FL = Florida. FTE = full-time equivalent.

Employment and Wages. California accounts for a quarter of average farm employment and Florida five percent. However, if the analysis is restricted to crop agriculture, where most H-2A workers are employed, California accounts for a third of crop employment. (https://migration.ucdavis.edu/rmn/blog/post/?id=2603).

DOL distinguishes between (1) fixed-situs employers or farm operators who hire workers directly, (2) farm labor contractors, and (3) associations that recruit and transport H-2A workers to US farms and are joint employers of the H-2A workers with the farm operator. Half of H-2A workers in the US are employed by farm operators directly, but in CA and FL, most H-2A workers are employed by FLCs.

Farmers seeking certification to employ H-2A workers must describe the job, wages, and hours and weeks of work in contracts that are used to recruit US and H-2A workers. The contracts in FY20 offered 39 hours a week for 24 weeks, which generates about $12,500 at the average AEWR of $13.43 and a total wage bill for H-2A workers of $3.4 billion.

CA H-2A contracts offered significantly higher wages of $14,400 than FL contracts at $9,900 because CA contracts offered three more weeks of work and the AEWR was higher in CA. FL had one of the highest average jobs per certification, 67, much higher than the US average of 20.

H-2A jobs are concentrated within states. Florida leads in H-2A job certifications with 39,000 in FY20, and five counties in the south central part of the state accounted for over half of the H-2A jobs.

The five largest H-2A employers in Florida accounted for 20 percent of the H-2A jobs certified in the state. Three were FLCs, and they offered contracts that promised significantly higher total earnings than the two fixed-situs farms that hired H-2A workers directly.

California's coastal counties that specialize in growing fresh vegetables and berries have the most H-2A jobs, even though the state's leading farm counties by sales are in the San Joaquin Valley.

California's leading H-2A employers are FLCs. The FLCs that provide crews to harvest vegetables in the Salinas area offer contracts that generate $15,000 to $18,000 in US earnings, while the H-2A workers who trim strawberry plants in far northern California are offered contracts that promise $6,000.

FWMA and AEWR

The Farm Workforce Modernization Act (FWMA or HR 1603), approved by the House on a 247-174 vote in March 2021, included a freeze in the AEWR, which varies by state and ranges from $12 in the southeastern states to over $17 in the Pacific states in 2022.

The FWMA would allow unauthorized farm workers who did at least 180 days of farm work in the previous 24 months to apply for Certified Agricultural Worker (CAW) status.

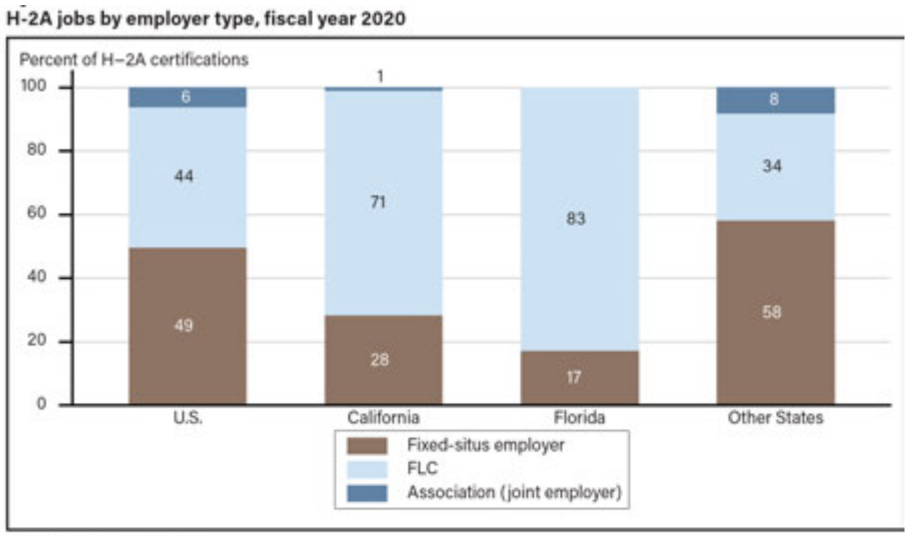
CAW workers could maintain their legal right to live and work in the US by doing at least 100 days of farm work a year and, after four or eight more years of farm work, could become immigrants. The spouses and children under 18 of CAW workers could also receive work and residence visas, would not have to do farm work to maintain their status, and could become immigrants with their farm worker sponsor.

The FWMA would modify the H-2A program by introducing three-year visas for H-2A workers so that they could remain in the US and work for multiple employers. The Adverse Effect Wage Rate would be frozen for a year, after which AEWR increases would be capped at 3.25 percent a year while USDA and DOL studied the impact and need for AEWRs until 2030.

How would freezing the hourly wage that must be paid to the 10 percent of US crop workers who are H-2A workers affect the wages of the 90 percent of US farm workers who are not H-2A workers? AEWRs rose by four percent a year over the past decade, with significant variation across states, so freezing the $3.5 billion H-2A wage bill would save employers about $140 million. The total AEWR wage savings would be larger because an estimated 50,000 US workers are employed on farms with H-2A workers and must receive the AEWR as well, so freezing the $717 million wages of US workers employed alongside H-2As would save $29 million, for a total of $169 million, similar to the $170 million estimate of DOL for the effects of an AEWR wage freeze.

The US farm labor wage bill is about $40 billion, including $30 billion paid by crop farmers and FLCs who bring workers to crop farms. The H-2A wage bill is about $3.5 billion or almost 12 percent of the crop wage bill.

Most H-2A Workers in California and Florida are Employed by FLCs



FLC = farm labor contractor.

Note: Percentages may not add to 100 due to rounding.

A fixed-situs (or fixed-site) farm employer is one "who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed, nursery, or other similar fixed-site location where agricultural activities are performed and who recruits, solicits, hires, employs, houses, or transports any worker subject to sec. 218 of the INA or these regulations as incident to or in conjunction with the owner's or operator's own agricultural operation." (29 CFR § 502.10).

California and Florida Each Accounted for Over 10% of the Total FY20 H-2A Wage Bill of $3.4 Billion

H-2A contract averages, fiscal year 2020

	U.S.	CA	FL	Other States
Total jobs certified	275,415	25,453	39,064	210,898
Jobs per application (avg.)	20	36	67	17
Weeks (avg.)	24	26	23	24
Hours per week (avg.)	39	38	37	40
Contract value (avg. $)	12,500	14,432	9,940	12,741
AEWR	13.43	14.77	11.71	13.51
H-2A wage bill (millions $)	3,443	367	388	2,687

U.S. = United States. CA = California. FL = Florida. avg. = average. AEWR = Adverse Effect Wage Rate.

Notes: The approximate value of an H-2A contract is obtained by multiplying the wage offered in the contract by the number of hours per week offered, the number of weeks of work offered, and the total number of jobs certified in the application. The AEWR for the United States is the average of State-by-State AEWRs weighted by each State's share of jobs certified.

California H-2A Jobs are Concentrated in Coastal Counties

What is the link between AEWRs and wages for US workers? Since AEWRs are higher than minimum wages, an expanding H-2A program means that more US workers are employed on farms with H-2A workers, so they may benefit from the higher-than-minimum AEWR wage. Farms with H-2A workers have relatively few US workers; about 50,000 were employed on farms with 220,000 H-2A workers in 2020.

The AEWR could also set a ceiling on hourly farm wages because a practically unlimited supply of H-2A workers is available at the AEWR. US workers who may be willing to work for a wage higher than the AEWR, but not for the AEWR, can be deemed unavailable to fill farm jobs.

AEWRs were introduced near the end of the Bracero program in the late 1950s after DOL concluded that the availability of Braceros had led to stagnation in US farm worker wages at a time when farm workers were not covered by minimum wage laws. The basis for AEWRs is the USDA Farm Labor Survey of about 12,000 farms conducted twice a year. About half of these farms respond, and they report the gross wages and total hours worked for various types of workers for the week that includes the 12th of January, April, July, and October.

There is currently one AEWR per state for all farm workers. As the H-2A program expands, DOL and the FWMA propose to set AEWRs by job title rather than having one AEWR per state. The USDA survey would be the first choice to obtain a wage for the AEWR but, if it does not generate wage data for particular job titles, DOL would use the Occupational Employment Statistics (www.bls.gov/oes/home.htm) to generate an AEWR for a particular job. USDA surveys only farmers, while DOL surveys only nonfarm employers.

AEWRs are likely to become more contentious as average farm earnings rise and the H-2A program expands. USDA's FLS adopted the gross weekly earnings divided by hours worked methodology in order to generate average hourly earnings for workers employed under a variety of wage systems, including hourly and piece rate systems. The OES provides more wage data, including mean and median hourly wages for particular job titles, but collects data only from nonfarm employers. Using only the USDA FLS survey to set AEWRs means excluding FLCs from the sample, but using only the OES means excluding farm employers who hire workers directly.

Four of the Five Largest California H-2A Employers are FLCs

California top five H-2A employers, fiscal year 2020

Employer name	H-2A jobs certified	Percent of State H-2A jobs	Contract value (avg. $)	Employer type	Filer type
Fresh Harvest	3,783	15	11,245	FLC	In-house
Rancho Nuevo Harvesting	2,054	8	10,132	FLC	Lawyer
Foothill Packing	1,541	6	18,089	FLC	Lawyer
Sierra Cascade Nursery	1,249	5	5,969	Fixed site	Lawyer
Elkhorn Packing	1,209	5	14,902	FLC	Lawyer
Total or average	9,836	39	11,864		

avg. = average. FLC = farm labor contractor.

U.S. Workers Employed by H-2A Employers, Fiscal Year 2020

State	COA crop labor expenditure (millions $)	Percent of COA crop labor expenditure	U.S. workers	U.S. workers wage bill (millions $)
California	9,554	36	4,885	67
Washington	2,111	8	13,867	177
Florida	1,535	6	2,618	37
Oregon	974	4	454	9
Texas	892	3	1,382	29
North Carolina	680	3	336	4
Top six States	15,746	59	23,542	322
United States	26,717	100	50,340	717

COA = Census of Agriculture.

References

Castillo, Marcelo, Philip Martin, and Zach Rutledge. 2022. The H-2A Program in 2020. USDA ERS EIB 238. August. https://www.ers.usda.gov/publications/pub-details/?pubid=104605

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