

COVID-19 and Farm Workers: Challenges Facing California Agriculture

Timothy Beatty, Alexandra Hill, Philip Martin, and Zachariah Rutledge

When stay-at-home orders were issued in March 2020 to slow the spread of COVID-19, farm workers were deemed essential and expected to continue working. As California's farm employment climbs toward its June peak, sick farm workers, closed schools, and uncertainties surrounding the H-2A guest worker program could reduce the supply of farm workers, accelerating trends already underway such as mechanization.

The coronavirus in March 2020 changed work and personal lives in California and around the world. Most workplaces and schools closed, and people were asked to stay home to avoid catching and spreading the virus.

Many employers developed remote working arrangements, but essential employees such as farm and food system workers continued to report to work. California farm employers are required to have Injury and Illness Prevention Programs (IIPPs), and in April 2020, the state's Division of Occupational Safety and Health (Cal/OSHA) instructed farm employers to update their IIPPs to prevent the spread of COVID-19. IIPPs must spell out who is responsible for training employees about the virus and who assesses and mitigates hazards, investigates illnesses and keeps records.

Most farm employers encouraged and required sick employees to stay home, installed more handwashing facilities and reminded workers to use them, and implemented physical distancing while working and during breaks. Some growers already require their employees to wear hair nets to enhance food safety, and some provided personal protective equipment to prevent

the spread of the virus. Transportation providers often made several trips with their buses and vans in order to allow riders to spread out.

California requires employers who pay \$100 or more in quarterly wages to pay unemployment insurance taxes on the first \$7,000 of their workers' annual wages, including unauthorized and H-2A guest workers, making the Quarterly Census of Employment and Wages the best estimate of agricultural employment. Figure 1 shows that monthly crop and support employment in 2018, the most recent data available, peaked at 485,000 in June, fell to a low of 345,000 in January, and averaged 423,000 during the year.

Over 90% of average employment in California agriculture is in crops. Farmers have been hiring fewer workers directly and more via crop support services, such as labor contractors who bring workers to farms. Crop farmers employed 45,000 more workers directly in June than they did in March 2018, and support services employed 93,000 more workers in June than in March.

Will agriculture retain the workers who are typically employed in March and recruit an additional 140,000 in spring 2020? Over three million Californians filed for unemployment benefits

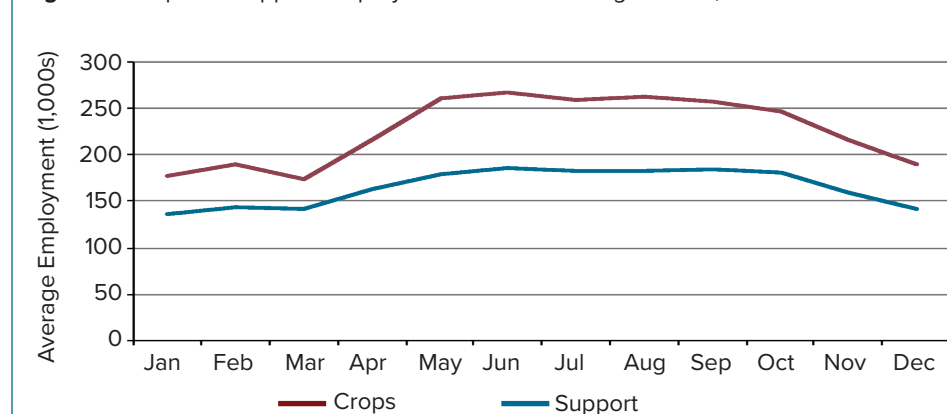
between mid-March and mid-April 2020, including two-thirds of those employed in the leisure and hospitality industry, including restaurants.

However, few jobless nonfarm workers are expected to seek seasonal farm jobs for several reasons. First, unemployed workers in cities have few links to the labor contractors and crew bosses who match most farm workers with jobs. Unless unemployed construction and service workers know farm workers and crew bosses, they may not learn about vacant farm jobs.

Second, unemployment benefits may exceed agricultural earnings. A construction or service worker who was earning \$3,000 a month would receive \$350 a week in unemployment benefits, plus \$600 a week in federal pandemic unemployment benefits through July 31, 2020, making benefits of \$950 a week—more than the \$500 a week average earnings of employees of labor contractors in 2018.

Third, most farm workers have low incomes and need to work. Many are unauthorized and ineligible for unemployment and other benefits, so they will likely stay in or return to seasonal farm jobs. These experienced farm workers live in areas with farm jobs and know the crew bosses who hire farm workers.

Figure 1. Crop and Support Employment in California Agriculture, 2018



On the other hand, jobless nonfarm workers would have to make contacts with employers, find housing in agricultural areas, and adapt to a new type of work before they would be a significant addition to the farm workforce. Such nonfarm-to-farm employment shifts are rare.

Schools, Visas, and Overtime

Three factors could affect the number of experienced farm workers and the hours they work in 2020. First, with schools closed, some people who would normally do farm work may have to care for children, which could reduce the supply of farm workers. Table 1 shows that California crop workers are mostly unauthorized Mexican-born workers who have less than a high-school education and do not speak English well. Most are married parents who are settled in one place, explaining why few migrate.

The share of women among crop workers has been rising—now at 30%—but far less than the 50% share of women among all California workers. Nonetheless, closed schools in 2020 are likely to slow the gradual increase in the share of female crop workers.

One alternative to settled, aging, and unauthorized resident workers are legal H-2A guest workers, over 90% of whom are Mexicans. Employers must be certified by the U.S. Department of Labor (DOL) as in need of guest workers, and these workers must receive H-2A visas from U.S. consulates abroad to work legally in the U.S. for up to 10 months. The U.S. Department of State (DOS) in March 2020 stopped conducting the mandatory in-person interviews of applicants for H-2A and other visas but, after farm employer protests, DOS agreed to waive interviews for returning and later all H-2A visa applicants.

H-2A guest workers fill about 10% of the million year-round equivalent jobs in U.S. crop agriculture and account for

Table 1. Characteristics of California Crop Workers, 1989–2016 (Percent)

California	Fiscal Years					
	1989–91	1998–00	2007–09	2010–12	2013–14	2015–16
Unauthorized	13	60	67	60	55	56
Migrant	43	54	31	16	14	16
Male	76	78	76	73	74	71
Age 20-34	50	57	47	44	38	39
Less than HS	87	93	90	82	77	73
Speak English Well	11	5	4	9	14	17
Married Parents	57	45	49	56	53	47

Source: <https://www.doleta.gov/naws/research/data-tables/>

5% of California’s average employment on crop farms. The H-2A program has been expanding rapidly in California, and H-2A workers are core components of berry, vegetable, and other workforces despite their higher costs. Employers must pay H-2A worker travel costs, provide housing at no cost, and pay an adverse effect wage rate (AEWR) of \$14.77 an hour, almost 14% more than California’s \$13 minimum wage for employers with 26 or more employees.

USDA created a website that allows farm employers who are certified to employ H-2A workers to locate H-2A workers already in the U.S. who are finishing their contracts. In April 2020, DHS allowed employers to offer these H-2A workers new contracts, saving employers recruitment and travel costs.

California farm employers in 2020 must pay overtime wages to farm workers after they work nine hours a day or 50 hours a week. Many farmers aim to avoid overtime pay by hiring more workers or making other adjustments, but a diminished supply of workers due to closed schools and costly H-2A workers may make it hard to find additional workers.

Two-thirds of crop workers interviewed by the NAWS in California in 2015–16 reported working more than 40 hours a week, including a third who worked more than 50 hours a week. If farm employers cannot recruit additional workers and instead pay overtime wages to a third of their workers

for five to 10 hours a week, labor costs will rise.

Legislative Responses

The federal government’s \$2.2 trillion Coronavirus Aid, Relief, and Economic Security Act (CARES) aims to cushion the effects of the economic shutdown prompted by COVID-19. The program is designed to send \$1,200 checks to Americans with adjusted gross incomes of less than \$75,000, and support the industries most severely impacted by stay-at-home orders. CARES provides forgivable loans to small businesses that keep their employees on the payroll.

CARES is likely to have limited impacts on California agriculture because farming is an essential industry. The closure of restaurants reduced the demand for fresh produce, but increased sales at supermarkets mean that most farmers are hiring the same number of farm workers in 2020 as in previous years. Half of farm workers are unauthorized and lack valid Social Security numbers, which limits their access to safety net programs, including the \$1,200 per adult and \$500 per child payments that CARES makes to legal residents and children in households with legal parents.

In April 2020, California announced a \$125 million Disaster Relief Fund to provide payments of \$500 per unauthorized adult, and \$1,000 per unauthorized household, to 150,000 unauthorized foreigners. These funds, which

include \$75 million in state funds and \$50 million expected from foundations, are to be distributed by nonprofits that serve the unauthorized.

Paid sick leave is one exception to the ban on government services for the unauthorized. The Families First Coronavirus Response Act (HR 6201) requires private-sector employers with fewer than 500 employees to provide up to two weeks of fully or partially paid sick leave for COVID-19 related reasons between April 1 and December 31, 2020. Full-time employees who have been employed at least 30 days and are subject to quarantine orders due to COVID-19, who have been advised to self-quarantine by a health care provider, or who are experiencing COVID-19 symptoms and are seeking a diagnosis, are eligible for 80 hours of paid sick leave at their regular wage, up to \$511 a day or \$5,110 in total. No waiting period is required, and H-2A and unauthorized farm workers are eligible.

Employees are eligible for two-thirds of their regular pay, up to \$200 a day or \$2,000 total, if they cannot work because they must care for someone with COVID-19 or a child under 18 whose child care facility or school is closed. Employers will receive credits for their COVID-19 sick-leave payments against their Social Security payroll taxes owed. For example, if the employer owes \$10,000 in federal social security taxes but made \$7,000 in employee sick leave payments, the employer would owe only \$3,000 in social security taxes.

DOL may exempt employers with fewer than 50 employees from the Families First paid leave requirements to care for children if granting paid leave would “jeopardize the viability of the business as a going concern.” There are limited data on the distribution of farm workers by size of employer, but many are employed by farms with fewer than 50 employees. It is not clear

whether most small farms will request and receive an exemption from paid sick leave mandates.

In April 2020, Assemblymember Eduardo Rivas introduced the five-bill California Farmworker COVID-19 Relief Package to assist farm workers and farm employers during the COVID-19 pandemic. AB 2915 would expand state-mandated paid sick leave, provide supplemental hazard pay to farm workers, and offer subsidies to those who care for farm worker children. This bill would also fund outreach campaigns to inform farm workers of how to protect themselves from COVID-19.

AB 2956 would grant tax credits to farm employers who pay overtime wages to farm workers; AB 2614 would improve telehealth services in rural areas; AB 3144 would streamline the approval process for smaller housing developments; and, AB 2165 would expand the availability of electronic filing to access state trial courts. The overtime tax credit could increase the supply of farm labor. If farm employers receive a state tax credit for the overtime wages they pay, they are more likely to pay 1.5 times usual wages for work in excess of nine hours a day and 50 hours a week, which would help to stretch the current workforce.

Looking Ahead

Farm worker employment is rapidly approaching its June peak, when there are 150 workers employed for every 100 workers employed in January. A month into the March–April 2020 shutdown associated with COVID-19, there are few reports of farm workers contracting the coronavirus or of farm workplaces shutting down due to outbreaks, unlike the virus clusters in meatpacking plants that prompted plant closures.

COVID-19 poses three major challenges for farm workers and California agriculture. The first is obtaining sufficient

workers for the rapidly approaching June employment peak. As the virus spreads, farm workers could get sick and learn about their paid leave options to care for themselves or family members. Workers getting sick and the availability of benefits could reduce the farm labor supply.

The second challenge is containing virus outbreaks. Most farm workers have relatively low incomes, encouraging them to work even when sick. Many live in crowded housing, so any outbreak could spread quickly. A lack of health insurance could discourage those who are sick from seeking care, fueling the spread of the virus.

Third, the virus is likely to speed changes already underway, including the substitution of machines for workers, where possible, and importing more H-2A guest workers from abroad. The average age of the unauthorized workers who dominate among the state’s farm workforce is 42, while the average age of H-2A guest workers is 32, helping to explain why ever more farmers are relying on H-2A workers despite their higher cost.

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Authors’ Bios

Timothy Beatty is a professor, Philip Martin is an emeritus professor, and Zachariah Rutledge a Ph.D. candidate, all in the ARE department at UC Davis. Alexandra Hill is an assistant professor at Colorado State University. They can be contacted at tbeatty@ucdavis.edu, plmartin@ucdavis.edu, rutledge@primal.ucdavis.edu, and alexandra.e.hill@colostate.edu, respectively.