

President Trump and Farm Labor: The Outlook

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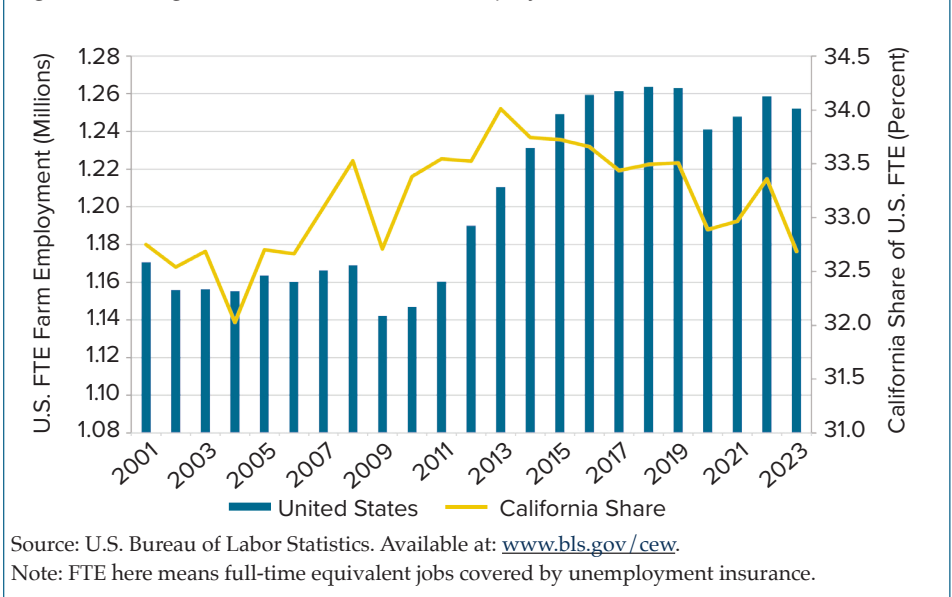
During the 2024 presidential campaign, Donald Trump promised to stop illegal migration over the Mexico-U.S. border and to deport many of the unauthorized foreigners in the United States. What could a second Trump term mean for U.S. farm employers and farmworkers? With few prospects for legalizing the third of U.S. farmworkers who are unauthorized, farm employers may replace deported workers with H-2A guest workers. The overall effect of the Trump administration's migration policies may be to raise farm labor costs and accelerate trends already underway, i.e., mechanizing hand labor tasks, hiring legal guest workers, and importing more fresh fruits and vegetables from lower-wage countries.

The 115,000 U.S. farm establishments registered with state unemployment insurance agencies hire about 2.5 million farmworkers sometime each year to fill an average of 1.3 million year-round, or full-time equivalent (FTE), jobs (see Figure 1). California farms employ about 850,000 workers annually to fill an average 425,000 jobs.

About 80% of average farm employment is covered by unemployment insurance (UI), because smaller farms are exempt from UI in some states. California accounts for a third of the total farm employment of 1.5 to 1.6 million. One average, or FTE, job can be created by two 6-month or three 4-month jobs.

Some 2.5 million people work on U.S. farms for wages each year. Two million, or 80%, were born in Mexico, including 1.7 million who have settled in the United States and 300,000 H-2A guest workers. Half of the 1.7 million

Figure 1. Average U.S. and California Farm Employment, 2001–2023



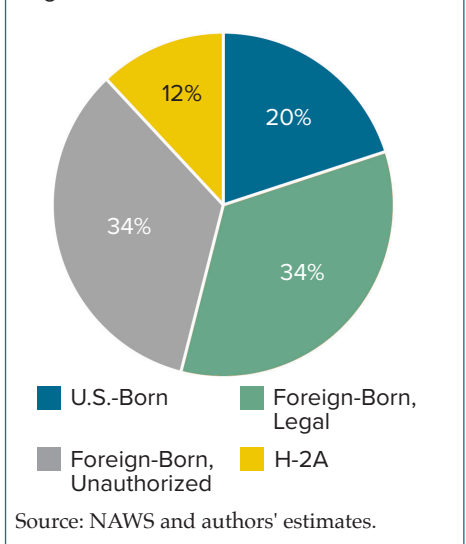
settled Mexican-born farmworkers are unauthorized. This means that the U.S. farm workforce includes 850,000 unauthorized workers, 300,000 guest workers, and 1.6 million U.S. citizens and legal immigrants—making unauthorized foreigners a third of U.S. farmworkers (Figure 2).

Most farmworkers are employed on farms that produce fruits and nuts, vegetables and melons, and horticultural specialties that range from mushrooms to nursery plants. On these FVH (or specialty-crop) farms, the cost of hired labor is 35% to 40% of production expenses. Total farm labor costs are \$50 billion a year, and the specialty crop farms that account for 15% of U.S. farm sales account for half of farm labor expenses.

Trump 1.0 and Biden

During his first term, President Trump sought to reduce unauthorized entries from Mexico by erecting a wall, adding Border Patrol agents, and making it more difficult and costly for foreigners to enter the United States and apply for asylum. Asylum applicants flee persecution at home, enter the United

Figure 2. U.S. Farmworkers by Legal Status



States, and ask to be recognized as refugees so they can resettle in the United States. While they wait several years for decisions, most asylum applicants receive work permits. This explains why many pay smugglers \$5,000 to \$10,000 to get into the United States despite 60% to 70% of asylum applications being rejected.

Most unauthorized foreigners and asylum applicants who have paid to get into the United States move to

cities and seek year-round jobs rather than becoming seasonal farmworkers. With few newcomers seeking farm jobs, some 15,000 farmers have turned to the H-2A program to obtain legal guest workers to fill seasonal farm jobs—those lasting up to 10 months.

H-2A workers pose a trade-off for farmers. On the one hand, H-2A workers are, on average, younger and more productive than the unauthorized workers who were in their 20s when they arrived in the United States in the 1990s and early 2000s. These workers are now in their 40s and 50s and less productive in repetitive hand-harvest jobs, such as picking apples or berries, than younger H-2A workers. However, H-2A workers are more expensive than U.S. workers because they must be paid an Adverse Effect Wage Rate (AEWR) of \$19.97 an hour in California in 2025, when the state's minimum wage is \$16.50. Employers must also provide H-2A workers with free housing and transportation to and from workplaces. The total cost of H-2A workers is often \$30 or more an hour in California versus \$20 or more for U.S. farmworkers with payroll taxes.

President Trump in April 2018 said: "For the farmers... it's going to get good. We're going to let your guest workers come in. They're going to come in, they're going to work on your farms ... but then they have to go out." Trump created an interagency task force charged with "streamlining, simplifying, and improving the H-2A temporary agricultural visa program."

In July 2019 the U.S. Department of Labor's (DOL) Office of Foreign Labor Certification proposed over 700 pages of H-2A regulations that included changing from one AEWR per state to ten or more AEWRs per state. Instead of the single \$19.97 California AEWR, the new regulations set an AEWR for each occupation or job title. The field worker AEWR is \$19.97, but agricultural truck drivers and workers who

construct buildings on farms could have an AEWR of \$30 an hour or more, reflecting the average wage reported by nonfarm employers to the DOL's Occupational Employment Statistics program.

Before these AEWR-by-job-title regulations could take effect, the USDA canceled the Farm Labor Survey (FLS), meaning that there were no hourly earnings data collected from farmers to set AEWRs. In response, the DOL proposed a two-year freeze on state-wide AEWRs, after which AEWRs were to rise by the same percentage as the Employment Cost Index for nonfarm wages and salaries. However, a federal judge in December 2020 ordered the USDA to resume the FLS and blocked the AEWR wage freeze, so there were no significant changes to the H-2A program during Trump's first term.

The Biden administration withdrew the Trump H-2A AEWR-by-job-title regulations, and the action shifted to Congress. Farm employer and worker advocates won approval of the Farm Workforce Modernization Act (FWMA) in the House of Representatives in 2021. The FWMA would repeat the compromise at the heart of the Immigration Reform and Control Act (IRCA) of 1986, viz, legalize unauthorized farmworkers and make it easier for farm employers to hire legal guest workers.

However, unlike the unauthorized farmworkers legalized by IRCA, the unauthorized farmworkers legalized under the FWMA would have to continue to do at least 100 days of farm work a year for four to eight years, depending on how long they had been in the United States. After completing this additional farm work, the farmworker and their family could obtain immigrant visas.

Under the FWMA, there would continue to be no limit on the number of H-2A visas to fill seasonal farm jobs.

The FWMA would introduce 20,000 three-year H-2A visas a year to fill year-round jobs in dairies and other livestock operations, so that 60,000 H-2A workers could be employed in year-round jobs after three years. The FWMA would cap annual AEWR increases at 3.25% while the government studied the need for an AEWR to protect U.S. farmworkers. Finally, the FWMA would require all farm employers to participate in E-Verify, the internet-based system that allows employers to check the legal status of newly hired workers.

The FWMA was not enacted, prompting Biden's DOL to implement the AEWR-by-job-title regulation in 2023 and to issue new worker protection regulations in 2024. These Biden H-2A regulations are controversial. Farm employers who hire H-2A workers to drive trucks, transport workers, or construct buildings sued to block them, arguing that they could not afford a doubling of the AEWR wage for the guest workers they hired. Other groups sued to block the worker protection regulation that granted H-2A workers union organizing rights even though farmworkers are excluded from the National Labor Relations Act.

The suits against the Biden wage regulation are ongoing, but federal judges have blocked implementation of portions of the worker protection regulation. For a summary of major H-2A regulations, see Table 1.

Trump 2.0

A second Trump administration could have three major implications for hired farm labor: 1) fewer unauthorized newcomers, 2) H-2A changes, and 3) an acceleration of the trend of increased mechanization, migrant H-2A workers, and imports already underway.

Most unauthorized farmworkers settled in the United States have

U.S.-born children and do not migrate around the U.S. to fill farm jobs. If Trump deports some or all of them, will there be farm labor shortages? The answer depends on how many and how fast deportations occur. Farmworkers may be less vulnerable to workplace raids than nonfarm workers in meatpacking plants, but they may be more vulnerable to traffic stops that check the legal status of workers in buses and vans commuting to work.

Deported workers could be replaced by legal guest workers, as occurred during the 1950s in the Eisenhower campaign called "Operation Wetback." There were no complaints of farm labor shortages despite the removal of 300,000 unauthorized foreigners from inside the United States in 1954–1955 in part because the number of legal Braceros admitted almost doubled from 200,000 in 1954 to a peak 450,000 in 1956.

More deportations could be mirrored in rising H-2A numbers. Some 400,000 seasonal farm jobs are certified to be filled by over 300,000 H-2A workers each year (Figure 3 on page 8); there are fewer workers than jobs because some H-2A workers are able to fill two certified jobs. The number of H-2A jobs quadrupled over the past decade, reflecting settled workers aging out of farm work. H-2A workers account for 15% to 20% of average employment on U.S. crop farms and over half of employment in Florida orange groves and Georgia onion fields. H-2A workers make up 5% of California farmworkers and are concentrated in coastal areas with high housing costs.

Farm labor costs are increasing faster than nonfarm labor costs because the supply of settled U.S. farmworkers is shrinking faster than the demand for labor at the same time as federal regulations and state laws have raised the cost of farmworkers. For example, California requires farm employers to pay overtime wages after 8 hours of work a day or 40 hours a week.

California farm employers must implement worker safety procedures when temperatures exceed 80 F and more safety procedures above 95 F, and the Private Attorneys General Act (PAGA) allows private attorneys to sue employers who violate labor laws on behalf of workers.

Farm employers hope that the Trump administration will make three major changes to the H-2A program. First, they want the AEWR to be eliminated unless the DOL can show that the presence of H-2A guest workers adversely affects U.S. farmworkers, which would mean that the wage that must be paid to U.S. and H-2A workers would be the higher of the federal, state, or local minimum wage. An AEWR that is 20% or more higher than the minimum wage tends to raise the wages of all farmworkers.

Second, farm employers want to employ H-2A workers in year-round jobs on animal and livestock farms. Employing H-2A workers for several years rather than several months would provide labor insurance but raise questions about families, children

in school, and the provision of health care. Some farmers want the H-2A program to change so that they can sponsor especially good workers for immigrant visas, as done in Canada.

Third, farm employers want modifications to H-2A regulations to reduce the cost of guest workers. Some propose eliminating the requirement to provide free housing to H-2A workers, while others want to collect rent from H-2A workers for housing, transportation, and other services that farmers provide to guest workers, as employers are allowed to do in Canada, Australia, and other countries.

Worker advocates who believe that H-2A workers are vulnerable to trafficking and exploitation want tougher labor laws and more enforcement. The DOL investigates fewer than 1,000 U.S. farms each year and finds labor law violations on 70% of them. Violations of H-2A regulations account for over half of the back wages and civil money penalties assessed by the DOL, prompting advocates to warn that the rising number of H-2A workers requires more enforcement.

Table 1. Major H-2A Regulatory Changes, 2009–2024

Regulations	Notes
2009 Final Rule	Uses Occupational Employment and Wage Statistics data to set the AEWR; prohibits charging worker placement fees; reduces re-entry time from 60 months to 3 months; creates eligible countries list.
2010 Final Rule	Reinstates the use of the USDA Farm Labor Survey; reinstates the role of state workforce agencies.
2019 Farm Workforce Modernization Act	Passed House; no vote in Senate.
2021 Farm Workforce Modernization Act	Passed House; no vote in Senate again.
2021 Final Rule	Was not enacted due to presidential administration change. Would have mandated electronic job order filing; would have permitted joint applications; would have permitted staggered worker entry.
October 2022 Final Rule	Updates the prevailing wage survey methods; clarifies joint employer restrictions; mandates electronic applications.
February 2023 Final Rule	Changes the AEWR methodology.
June 2024 Final Rule	Requires procedures for discipline; allows union and legal aid visits; mandates seat belts; increases penalties and risk of disbarment.

Source: Adapted from Philip Martin, University of California, Davis and Jared Johnson and Ross Courtney, Good Fruit Grower. Available at: tinyurl.com/49nkW386.
 Note: H-2A visas were created in 1986.

Trump could simplify H-2A regulations or eliminate the H-2A program. Simplifying regulations to reduce employer costs would likely accelerate H-2A program growth, allowing the H-2A share of average employment on U.S. crop farms to surpass the peak 20% Bracero share of crop employment in the mid-1950s. The Heritage Foundation's Project 2025, on the other hand, recommended phasing out the H-2A program and subsidizing mechanization, which could speed the adoption of robots in the fields and encourage farmers who cannot mechanize to change crops, likely increasing fruit and vegetable imports.

Looking ahead, fresh fruits and vegetables can be produced in the United States with machines or migrant workers, or the United States can import more of its fresh fruits and vegetables. The choice between machines, migrants, and imports (the MMI options) is likely to vary by commodity to reflect factors that include the U.S. comparative advantage in producing and shipping the commodity to consumers.

The United States has a comparative advantage in crops such as fresh apples that can be stored a year or more and where employers are turning to migrant H-2A workers as a bridge until orchards are replanted with dwarf trees and robots are

perfected. U.S. production of more perishable crops, such as fresh asparagus, tomatoes, and raspberries, on the other hand, is likely to shrink in the face of few prospects for mechanization and rising imports from lower-wage countries.

Outlook

President Trump's second term may bring significant changes to migration policies and flows. The migration policy changes most likely to affect farm labor involve efforts to deport unauthorized foreigners, to modify H-2A guest worker policies, and to change trade policies.

During Trump's first term, there were no significant changes to the H-2A program, which expanded because few of the unauthorized newcomers and asylum seekers who arrived replaced the farmworkers who left the farm workforce. Biden administration regulations increased the cost of H-2A workers even as the program expanded due to the supply of settled U.S. farmworkers shrinking faster than the demand for them.

President Trump could reverse the Biden administration regulations and reduce the cost of H-2A workers—which would likely lead to faster growth in the H-2A program—or phase out the H-2A program and subsidize mechanization as recom-

mended by the Heritage Foundation. There is little prospect of running out of Mexican and other workers anytime soon, because U.S. farmworker wages are ten times the wages in Mexico and other countries of origin. However, changes to trade policies and tariffs could play a decisive role in whether farm employers try to mechanize, hire H-2A workers, or change to less labor-intensive crops.

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For additional information, the authors recommend:

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Figure 3. H-2A Jobs Certified and H-2A Visas Issued, 2005–2023

