

Farm Labor Policy Challenges
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About 85 percent of hired workers on US crop farms are immigrants, and 98 percent of those with less than two years crop work experience were born abroad. If current trends continue, the hired farm workers of tomorrow are growing up today outside the US, usually in rural Mexico and Central America. The major farm labor issue in 2001 is the terms on which US farm employers will get access to these foreign farm workers. Will they be:

- **guest workers who must return to their countries of origin,**
- **probationary immigrants who can earn immigrant status by working in US agriculture or**
- **immigrants free to hold any US job?**

The guest worker policy decision made by Congress will help to determine the cost and availability of farm workers and shape communities in rural America in the 21st century.

Deja Vu. The farm labor situation in 2001 is very similar to the early 1980s. Then, 20 to 25 percent of seasonal crop workers were unauthorized, Congress was debating employer sanctions to discourage the entry and employment of unauthorized workers, and farmers were reluctant to lose access to unauthorized workers and be forced to hire workers through the H-2 (now H-2A) program—the H-2/H-2A program requires farm employers to have their efforts recruit US workers “certified” as adequate by the US Department of Labor (DOL). Farmers, fearing that DOL would not certify their need for foreign workers, or require them to hire US workers who responded to their ads (such as union members), wanted a non-certification guest worker program, i.e., a way to hire immigrant farm workers without obtaining government certification (any farmers also did not have the housing required to obtain certification).

The farm worker compromise reached in summer 1986 that allowed the Immigration Reform and Control Act of 1986 to become law had two programs to make legal immigrant farm workers available:

- **an easy legalization program for currently illegal workers, the Special Agricultural Worker (SAW) program**
- **two guest worker programs through which farmers could obtain additional workers in the event of labor shortages, (1) an H-2A certification program and (2) a non-certification Replenishment Agricultural Worker (RAW)—the RAW program was never used before expiring in 1993.**

A major goal of the SAW-RAW-H-2A programs was to give agriculture a legal work force. Most worker advocates and farm employers believed that legal

workers would press for wage increases, reversing wage declines of the early 1980s. However, farm wages did not rise, largely because IRCA led to a glut of farm workers, as unauthorized workers continued to arrive in the US, and they found it easy to obtain false documents and thus satisfy the new employer sanctions law. This encouraged legal SAWs to get out of agriculture, and they were replaced by unauthorized workers, many of whom presented false documents to get hired.

SAWs and Unauthorized Crop Workers: 1989-98

| | SAWs | Unauthorized |
|------|------|--------------|
| 1989 | 37 | 8 |
| 1990 | 30 | 17 |
| 1991 | 27 | 19 |
| 1992 | 23 | 33 |
| 1993 | 12 | 44 |
| 1994 | 20 | 38 |
| 1995 | 19 | 40 |
| 1996 | 16 | 50 |
| 1997 | 17 | 51 |
| 1998 | 15 | 52 |

Source: National Agricultural Worker Survey (NAWS)

New Guest Worker Programs. Beginning in 1995, western farm employers had bills introduced in Congress to create an alternative to the H-2A program that would impose fewer requirements on farmers. Farmers argued in Congressional hearings that the H-2A program was “broken,” as evidenced by the declining number of US farm jobs certified by DOL as needing to be filled with H-2A foreign workers. The low point in certifications was reached in 1995, the year after the Florida sugarcane harvest, which relied on Caribbean workers to hand-cut sugar, was mechanized. However, H -2A certifications almost doubled between 1997 and 1999, as labor consulting firms, often staffed by ex-DOL officials, opened for business in the Carolinas and Georgia.

H-2A Certifications: 1985-2000

| | Workers Certified | Sugarcane | Tobacco | Sheep |
|------|-------------------|-----------|---------|-------|
| 1985 | 20,682 | 10,017 | 831 | 1,433 |
| 1986 | 21,161 | 10,052 | 594 | 1,043 |
| 1987 | 24,532 | 10,616 | 1,333 | 1,639 |
| 1988 | 23,745 | 10,751 | 2,795 | 1,655 |
| 1989 | 26,607 | 10,610 | 3,752 | 1,581 |
| 1990 | 25,412 | 9,550 | 4,666 | 1,677 |
| 1991 | 25,702 | 7,978 | 2,257 | 1,557 |
| 1992 | 18,939 | 4,271 | 3,080 | 1,522 |
| 1993 | 17,000 | 2,319 | 3,570 | 1,111 |
| 1994 | 15,811 | 1,419 | 3,720 | 1,305 |
| 1995 | 15,117 | | 4,116 | 1,350 |
| 1996 | 19,103 | | 9,756 | 1,366 |

| | | | |
|------|--------|--------|-------|
| 1997 | 23,562 | 14,483 | 1,667 |
| 1998 | 34,898 | 16,984 | 1,961 |
| 1999 | 41,827 | 16,206 | 1,443 |
| 2000 | 44,017 | 14,554 | 1,865 |

Source: US Department of Labor, ETA, OWS. Annual Reports.

In July 1998, the US Senate approved the Agricultural Job Opportunity Benefits and Security Act of 1998 or AgJOBS bill on a 68-31 vote as an attachment to an appropriations bill. AgJOBS created a new guest worker program, and ordered the creation of registries in each state to register legally authorized farm workers who were available to be deployed to farms to fill seasonal jobs. Farmers would apply to the registry for workers, and, for example, if 100 workers were requested, and only 60 workers on the registry were willing to report to fill the jobs, the farmer would be certified to employ 40 foreigners. President Clinton threatened to veto the appropriations bill if it included AgJOBS, and Congress did not approve it.

In 2001, it appears that Congress will approve a new guest worker program. US President Bush and Mexican President Fox favor a new program, as do the chairs of the immigration subcommittees in Congress. There are three major proposals pending in Congress:

- **Senator Phil Gramm (R-TX) favors a guest worker program that would permit unauthorized Mexicans already in the US to obtain seasonal or year-round work permits that would make them guest workers. Seasonal guest workers could return to the US indefinitely, while year-round workers could work in the US three consecutive years and then have to stay in Mexico at least one year before returning.**
- **The AFL-CIO supports a general legalization program for unauthorized foreigners in the US, but no new guest worker program. The AFL-CIO also wants to stop enforcing employer sanctions laws, and to step up enforcement of minimum wage and other labor laws. Rep. Luis V. Gutierrez (D-IL) has introduced the US Employee, Family Unity and Legalization Act, that would grant temporary legal status to persons in the US before February 6, 2000, and immediate immigrant status to persons in the US before February 6, 1996. The legalization date would then roll forward one year in each of the next five years, eventually encompassing all of those now illegally in the US.**
- **An AgJOBS compromise negotiated in December 2000, and agreed to by the United Farm Workers and the National Council of Agricultural Employers, would admit additional guest workers for agriculture under a revised H-2A program and give temporary resident status to unauthorized farm workers who did at least 100 days of farm work in the preceding 18 months. If a probationary immigrant did at least 360 days of farm work in the next six years, including 275 days in the first three years, he could obtain an immigrant status.**

Implications for Rural America. One of the most dramatic results of the 2000 census was the Latinization of rural America, as rural and agricultural areas across the US that have not

received many immigrants for 100 years found that the Hispanic populations doubled or tripled in the 1990s. A rural America that is generally older and whiter than the rest of the United States has become the port of entry for especially young immigrants from Mexico and Central America.

If history repeats itself, many of the Latino immigrants arriving to fill jobs in agriculture and related industries will move on to urban areas after they acquire contacts and legal status in the US, and their children educated in the US are not likely to follow their parents into the fields or slaughterhouses. If current trends continue, agriculture and related industries will have revolving door labor markets, in which newcomers fill jobs for 10 to 20 years, and then are replaced by even newer arrivals.