

The H-2A Program: Current Dynamics and Future Changes

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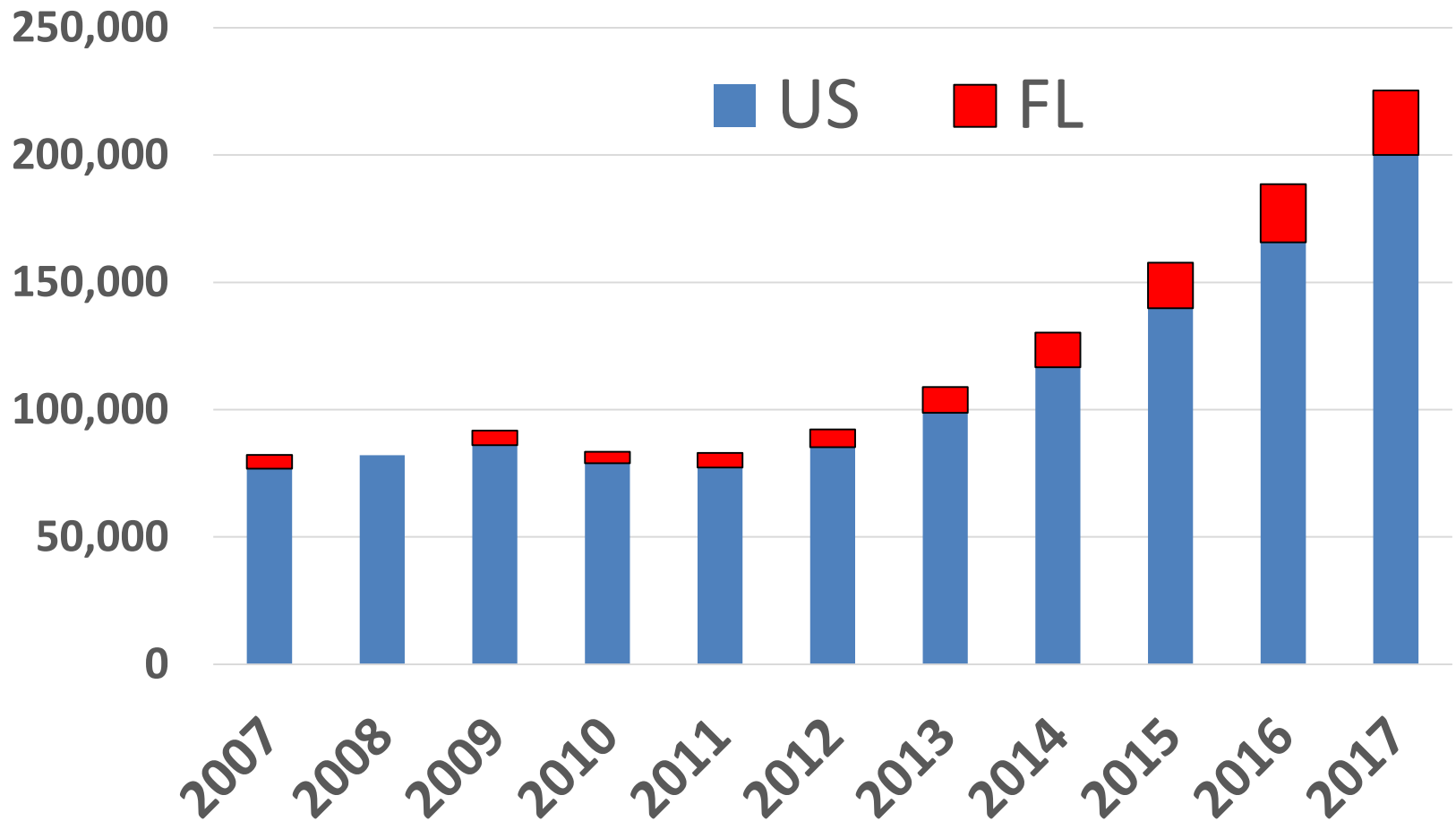
Fritz Roka



Current Situation among Specialty Crop Growers

- Labor intensive
- Mechanization limited
 - (underlying demand for farmworkers strong)
- Not enough domestic workers
- 70+ % NOT legally documented.
- Fear pervasive among domestic farmworkers.

US and FL Certified H-2A Positions



Florida H-2A Certified Positions

Year	FL	% of US
2007	5,362	6.90%
2008	na	na
2009	5,820	6.60%
2010	4,510	5.70%
2011	5,741	7.40%
2012	6,945	8.10%
2013	10,051	10.20%
2014	13,544	11.60%
2015	17,942	12.80%
2016	22,828	13.80%
2017	25,303	12.60%

Necessary Conditions for H-2A Petition

- **Demonstrate:**
 - NOT enough domestic workers.
- **Ensure:**
 - Domestic workers NOT hurt
(earnings or working conditions)



Contractual Obligations

- Start/End dates.
- Early termination limited by contract terms.
- ALL costs paid by employer
 - Petition
 - Recruitment
 - Housing
 - Transportation (return trip if contract completed)
 - Fees/bribes/payoffs paid by worker to 3rd party recruiters
- Wage/Hour Terms
 - Min weekly average hours of “offered” work
 - $\frac{3}{4}$ guarantee (offered hrs/wk x wks x .75)
 - Min wage (highest: state / fed rate, local prevailing, union, or AEWB)

Pre-Employment Hiring Costs

All costs paid by the employer.

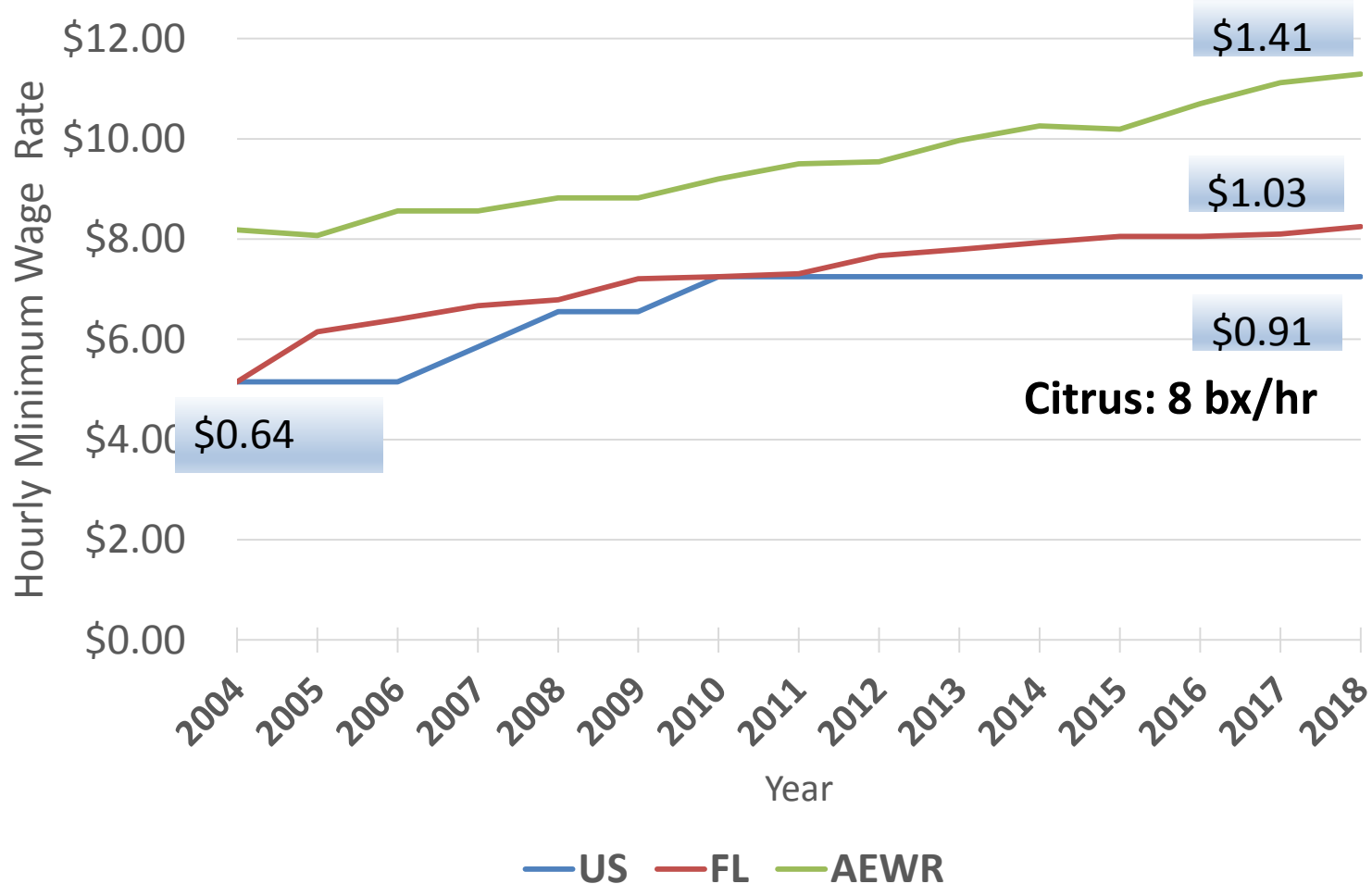
Description	Cost per H-2A Worker
Visa	\$190
Worker recruitment Petition filing Domestic worker advertisements FLC bond (~\$7-8/worker) In-country recruitment	\$160
Transportation (round-trip)	\$400
Housing (\$/bed for 8-months)	<u>\$1,200</u>
Total Pre-employment cost:	\$1,950

H-2A Management Induced Adjustments

Description	H-2A Worker	Domestic Worker
Employment status	contract	“at-will”
Guaranteed hours within a season	75% (“offered” hrs)	None
Minimum average hourly earnings (as of Jan 1, 2018)	\$11.29	\$8.25

Minimum Wage Rates

Federal (US), Florida (FL), H-2A (AEWR)



Is this guy QUALIFIED?



PROTECTIONS FOR U.S. WORKERS

- Must hire “qualified” **domestic** workers.
- **Domestic** workers given same contract, benefits and working conditions as H-2A workers.
- Employer may NOT lay-off **domestic** workers to hire H-2A workers.
- **Domestic** workers recruited through the 50% of contract period.
- U.S. workers hired with EEOC protections.

H-2A Program Debate



Employers Like	Advocates Dislike
Workforce certainty within season	Workers bound to single employer within season
Workforce productivity across seasons	Social dynamics within worker home towns

Other H-2A Criticisms

- Foreign guest workers suppress domestic farmworker wages.
- Effectiveness of DOL to fully inspect H-2A employers.
- No development of long-term labor talent – skilled trades; management.
- H-2A housing driving up rental costs for domestic (low income) workers.
- NIMBY-ism when trying to construct new H-2A housing.
- Concerns when several hundred single, young men move into a community (U.S.).
- Facilitating entry for illegal immigrants.
 - (i.e. H-2A workers walk away and do not return home.)

The Future (?)

H-2C, Agricultural Guestworker Act

- Introduced Sep 2017
- Passed House Judiciary Committee, Oct 2017
- ??

Employer Likes

	H-2A	H-2C
Minimum wage	AEWR (\$11.29/hr)	115% of federal min wage (\$8.34/hr)
Bureaucracy	US DOL	USDA (?)
Housing required	Yes	No
Litigation	Yes	Mediation/ Binding arbitration
Eligible ag-jobs	Seasonal specialty crops	Expanded: Forestry, fisheries, dairy, packing houses, and meat processing
Unauthorized domestic farmworkers	No if previously deported. Deported if found.	Eligible to participate

Employer Concerns

	H-2A	H-2C
Annual Quota	none	450,000 (40,000 for meat packing)
Max contract	<10 mos	18 mos seasonal jobs (36 mos year-round jobs)
“At-will” opportunities	none	YES after initial contract completed.

Other features:

- Trust fund.
- Mandatory E-verification.
(Likely federal law and part of proposed Florida constitutional amendments.)

Wrap-Up Comments

- Seasonal manual labor important (5-10 yrs)
- Reliance on foreign workers
- More expensive
- Fused with immigration reform debate.

Thank you.



Questions/comments/corrections?

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