

# H-2A Workers in Ohio: Trends and Patterns

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## What is the H-2A Visa Program?

The H-2A visa program allows growers to bring in seasonal workers on temporary agricultural visas, who then return to their home countries at the end of the growing season. This population is vital to our food system, and they work in one of the most dangerous industries in our country, and yet little is known about them because they are excluded from the National Agricultural Worker Survey (NAWS).

The structure of the national program, including its history and its failures, have been extensively documented elsewhere, and as such only a brief summary is presented below. This paper focuses specifically on Ohio and what is known about the H-2A workers here, including where they live and who their employers are. Data is drawn from the application forms filled out by the growers (ETA Form 790) and site visits to worker housing.

Given the consistent upward trend of H-2A contracts in the state, and the challenges presented by the pandemic, thorough knowledge of who these workers are and where and how they live here is necessary for sound agricultural policy and effective public health measures. However, H-2A workers are a hidden population and data about them is scarce. This white paper is a first step in remedying this situation.

## National Data and Trends

- 93% of H-2A workers are from Mexico. Other sending countries include Jamaica (1.8%), Canada (1.5%), South Africa (1.3%) and Guatemala (1.2%)<sup>1</sup>.
- The United States does not record any other demographic data, such as the sending regions within these countries, the ages of the workers, or their years of experience. There is very little quantitative data on state-level trends or patterns.
- The number of H-2A positions certified in the United States increased by 70% between 2011 and 2019: 77,246 jobs were certified in 2011 and by 2019 that number had grown to 257,667<sup>2</sup>.
- The statewide trend in Ohio is steeper: from 2011 to 2019, the number of H-2A certifications increased by 86%.

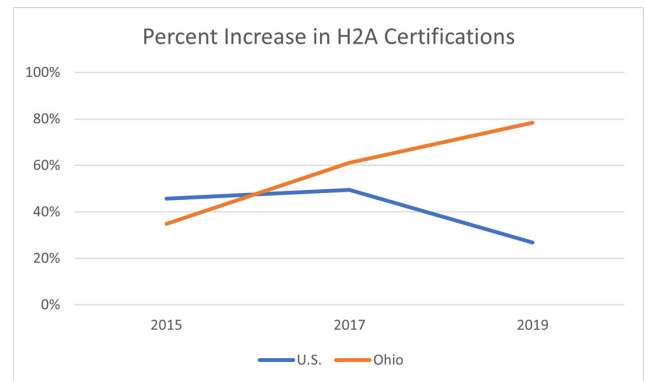


Figure 1: Percent Increase in Certifications in Ohio and the U.S., 2015-2019

Several factors contribute to this national trend, including:

- The aging of the domestic farmworker population<sup>3</sup>
- A decline in the undocumented population, which has long served as the primary source for farmworker labor<sup>4</sup>
- Increased immigration enforcement under the Obama Administration's first term, thus further decreasing the undocumented labor force
- The stringent immigration policies of the Trump administration, which in addition to further militarizing the Mexican border, resulted in a significant increase in workplace raids.<sup>5</sup>

## Program Structure

H-2A workers have experiences that differ in important ways from other farm labor. These include:

- In Ohio, H-2A workers are paid \$14.52/hr.<sup>6</sup> While the exact rate differs by state, all wages are higher than the minimum wage because they are set by the Adverse Effect Wage Rate (AEWR). This rate ensures that the presence of foreign labor doesn't negatively affect wages for local workers.
- Growers must first advertise their positions locally, and prove they were unable to be filled, before applying for H-2A visas.
- Workers receive free housing from the employers (something that is not required for other seasonal or migrant workers). The housing must conform to federal guidelines and, depending on the state, pass an inspection.
- Workers are compensated by the grower for their travel to and from the worksite, and are guaranteed three quarters of the hours specified in the contract.<sup>7</sup>
- The visa is not transferrable- if a worker is unhappy with their position, they cannot look for work elsewhere. They must either continue with the grower who hired them originally or return home and lose a season's wages.<sup>8</sup>
- Workers are employed directly by the grower, or they are recruited and hired to work for a Farm Labor Contractor (FLC) who then contracts with the grower.

## Potential for Abuse

In spite of the regulations governing the program, the terms of employment leave the H-2A workers vulnerable to potential exploitation. For example:

- FLCs may charge recruitment fees and growers may require the workers to pay for their own transportation to the United States, even though both practices are illegal. In one survey of Mexican H-2A workers who had worked in a number of states, 26% reported paying recruitment fees, while 73% reported that they were not fully reimbursed for their transportation costs.<sup>9</sup>
- Growers often underpay their workers and then threaten them with violence or deportation if they complain. In their report "Ripe for Reform" the Center for Migrant Rights notes that 43% of the H-2A workers surveyed were not paid the correct wages, while 31% experienced serious verbal abuse.<sup>10</sup>
- Housing often goes uninspected or penalties for violations are unenforced, partly because there are insufficient resources for meaningful oversight of housing and workplace safety. The agency in charge of housing in Texas, for example, never actually levied a fine even though many dwellings failed inspections. In Iowa, the entire state had only one, part time, employee to carry out inspections.<sup>11</sup>

# H-2A Labor in Ohio: Trends

## Statewide Patterns

The total number of H-2A workers in the state has been growing steadily for over a decade, with a marked increase in the 2017 and 2019 growing seasons (Figure 2).

### More Workers, Shorter Stays

Interestingly the number of certified workers has increased over the past decade, but the average number of days a worker stays has decreased.

Keeping in mind that length of stay varies greatly (from 66-306 days) in 2019, the overall trend is still clear: more workers are being certified, but they are staying for shorter periods of time (Figure 3).

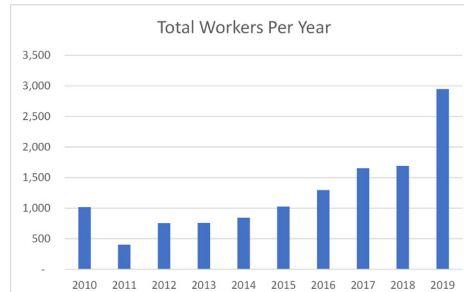


Figure 2



Figure 3

### Grower Participation: Many Recent Additions

The growing number of H-2A workers is mirrored by an increase in participating growers over the past decade (Figures 4 and 5).

The number of new growers increases most years, indicating that many growers who currently use the program have only recently joined.

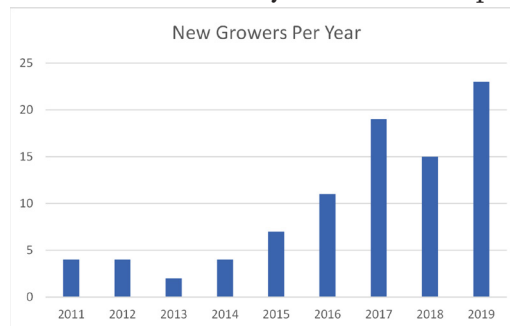


Figure 4

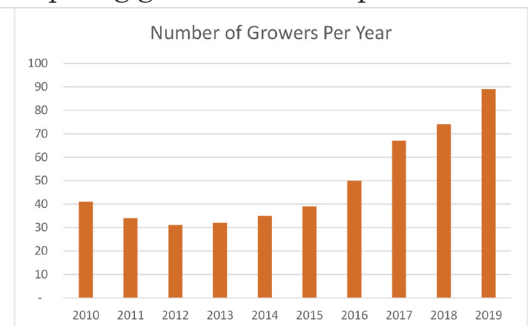


Figure 5

### Few Farms Hire Many

In 2019, five growers accounted for 43% of all workers certified for that year. Three of those growers- Wiers Farm Inc, Del Sur Harvesting LLC and Manzana LLC- were first time participants in the program

Of the 130 different growers who have participated in the program over the past decade, 73 of them have requested ten or less workers in any given year, while only 20 have ever requested more than 50.

While more and more growers are hiring H-2A workers every year, the sharp increase in number of workers in the state is being driven by only a handful of operations

### More Absentee Employers, More Potential for Abuse

An increasing number of growers live out of state (Figure 6).<sup>12</sup> While the numbers themselves seem small, they become significant when examined in relationship to the top growers (Figure 7).

This trend is important because research has shown that the presence of middlemen, such as FLCs, increases the likelihood of wage violations, abuse, and injury.<sup>13</sup>

Years	Total Number of Growers	Out of State Growers
2010-2013	138	0
2014-2016	124	5
2017-2019	230	17

Figure 6

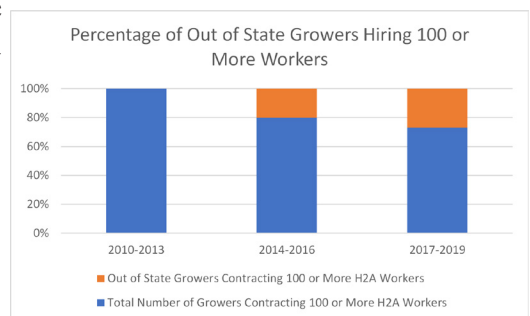


Figure 7

# Where are the workers?

## Implications of spatial distribution

The maps below compare the locations of the workers' housing in 2013 and 2019 (Figures 8 and 9).

- In 2019, they lived in 44 counties total, compared with only 18 counties in 2013.
- Over the past decade, counties in the northwestern and central areas of the state have significantly increased their use of the H-2A workers, which means H-2A workers can now be found throughout the state.

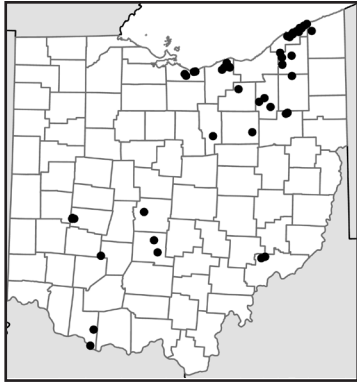


Figure 8

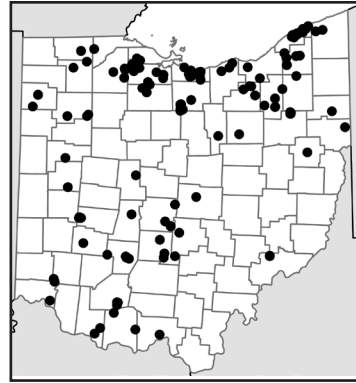


Figure 9

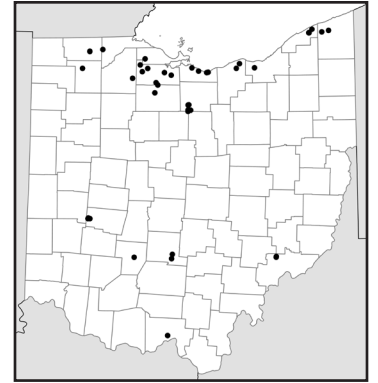


Figure 10

Figure 10 shows the housing locations for growers who brought in over 100 H-2A workers from 2017-2019. Because exact numbers of workers are not recorded for each housing address, this map serves as a proxy for understanding how the population is distributed throughout the state.

## Why Does Housing Location Matter?

- This is a highly mobile and somewhat hidden population. Thus, knowing where to find them is the first step in effectively meeting their needs
- Location varies greatly, from practically urban to completely rural (Figures 11-14). This in turn will affect workers' access to services and resources.
- Outreach efforts conducted at their places of residences are often the only mechanism by which abuse or program violations are discovered.
- The housing workers are provided varies greatly, both in quality and in kind. They live in single family homes, motels, mobile homes, apartments, and occasionally barracks style structures on larger farms (Figures 15-18). Although some residences are well maintained, others are decrepit, unsanitary or unsafe.
- While there are federal standards for the quality of the residences the growers provide, these standards are sometimes violated. Violations rarely result in penalties or improvements.



Figure 11



Figure 12



Figure 13

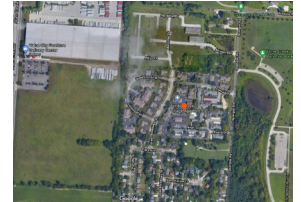


Figure 14

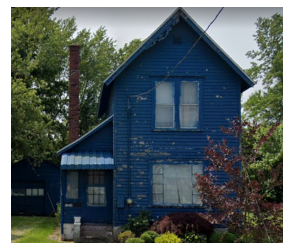


Figure 15



Figure 16



Figure 17



Figure 18

- While there are federal standards for the quality of the residences the growers provide, these standards are sometimes violated. Violations rarely result in penalties or improvements.
- The federal regulations allow for crowded living conditions that lack basic amenities. For example, 40 sq. feet per person for sleeping, one toilet per 15 people and one stove for 10 people are considered sufficient. Moreover, the residences are not required to have indoor toilet or shower facilities<sup>14</sup>. There are many health risks associated with such living conditions, but COVID makes this a particularly urgent concern.

## Recommendations

- Increase funding for the agencies responsible for enforcement of the existing regulations, especially in regards to housing. While the H-2A population has expanded over the past decade, resources for oversight have not. The results are underfunded state agencies that are unable fulfill their role in protecting workers' safety and holding growers accountable. Funding for housing inspections must be increased to reflect the true magnitude of the need.
- Reform the federal regulations for health and safety measures, such as access to water and sanitation facilities in the field. This is especially crucial during a pandemic, where issues such as overcrowded housing and lack of basic handwashing facilities can result in the spread of a deadly disease- both within the farmworker population and the communities that host them.
- Create and maintain a database with more detailed information about the workers arriving in the United States. This should include, at minimum, their ages, years of experience, previous H-2A employers, and the sending region of their home country. Again, there is a global pandemic and yet there is no systematic way of knowing if the workers are arriving from a disease hotspot, COVID or otherwise.

Neither state nor federal officials know where the H-2A workers are coming from, what resources are available in their host communities, or which growers are abiding by the program's regulations. In the short term, states need dedicated resources and sound data collection to fill the gaps of knowledge made urgent by the current global health crisis. In the long run, federal legislation and programs will be necessary to address the structural flaws, so that safety and dignity become the foundation for a secure and abundant food system in Ohio and across the nation.

# Endnotes

- 1 U.S. State Department, “Non-immigrant Visas Issued by Certification Fiscal Years 2015-2019”
- 2 Daniel Costa and Philip Martin, “Coronavirus and Farmworkers”, Economic Policy Institute, March 24th, 2020.
- 3 Thomas Hertz, “US Hired Farm Workforce is Aging”, Economic Research Service, US Department of Agriculture, May 1st, 2019
- 4 Ibid
- 5 Michelle Hackman, “Workplace Immigration Inquiries Quadruple Under Trump”, Wall Street Journal, December 5th, 2019
- 6 U.S. Department of Labor, “Adverse Effect Wage Rates”
- 7 U.S. Department of Agriculture, “H-2A Visa Program”
- 8 Farmworker Justice, “H-2A Guestworker Program”
- 9 Mary Bauer and Maria Perales Sanchez, “Ripe For Reform: Abuses of Agricultural Workers in the H-2A Program”, Centro de los Derechos del Migrante, Inc, 2020
- 10 Ibid
- 11 Ibid
- 12 These are people who, when filling out the “Employer’s Name and Address” section of the H-2A application, list a state other than Ohio.
- 13 Suzy Khim and Daniella Silva “H-2A Visas Program for Farmworkers Surging Under Trump- and so are labor violations” NBC News, July 29th, 2020. Thomas Arcury and Sarah Quandt, “Delivery of Health Services to Migrant and Seasonal Farmworkers” Annual Review of Public Health, 28(1), 345–363, 2007
- 14 Electronic Code of Federal Regulations, “PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM