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Agriculture and migration after Arizona's SB 1070 law

By Philip Martin

The U.S. Supreme Court in June 2012 upheld the show-me-your-papers provision of Arizona's SB 1070 law while reaffirming the federal government's authority over immigration policy making. The court in May 2011 upheld another Arizona law that required all employers to use the Internet-based E-Verify to check the legal status of new hires, which may have opened the door for more states to enact laws to crack down on unauthorized foreigners, if there is less than significant federal immigration legislation soon.

Additionally, the state's Legal Arizona Workers Act since Jan. 1, 2008, has required Arizona employers to submit data provided by newly hired workers to DHS's E-Verify system. There is no state punishment for employers who fail to enroll in E-Verify, but employers found to have hired unauthorized workers can have their business licenses revoked. On average, one Arizona employer a year has had its business license revoked in the law's first three years; none of them have been farmers.

The court's Arizona decisions may encourage more states to enact similar laws. Five states – Alabama, Georgia, Indiana, South Carolina and Utah – have laws similar to Arizona's SB 1070. Five other states – Kansas, Missouri, Mississippi, West Virginia and Tennessee – have considered immigration control laws in 2012 but did not enact them, awaiting the court's decision on SB 1070. All federal contractors and 18 states require some or

all of their employers to use E-Verify, while California and Illinois enacted legislation that limits the ability of local governments to require employers to use E-Verify.

Mexico-U.S. migration

For most workers, farm work is a job rather than a career. A conservative estimate is that at least 10 percent of farm workers leave the farm work force each year, so farmers have to rely on an influx of

new entrants to replace those who leave for nonfarm jobs or return to Mexico. If California has a million unique farm workers, this means 100,000 newcomers are required to replace those who exit; for the 2.5 million unique hired workers across the United States, 250,000 newcomers a year are required.

Mexico-U.S. migration has slowed, providing fewer new

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WCAHS and representatives from CalOSHA Heat Illness Prevention program conducted a training of trainers (TOT) session on July 1 at the Stockton Sikh Temple. Twenty eight people were trained in English and in Punjabi. Far left, seated, Michael Alvarez, Cal OSHA; standing WCAHS instructor Teresa Andrews; Iqbal Kaur, translator and Sikh School Principal; and Gurdeep Kooner, IT for the City of Lodi, participant.

entrants to replace farm workers who exit. About 10 percent of the people born in Mexico have moved to the United States, some 12 million, and 30 percent of the 40 million foreign-born U.S. residents were born in Mexico, making Mexico the largest source of U.S. immigrants. Mexican-born U.S. residents have spread throughout the United States, but almost 60 percent live in California and Texas.

California agriculture is feeling the effects of slowing Mexico-U.S. migration because of its revolving door labor market, which relies on newcomers from abroad to replace workers who exit. If Mexico-U.S. migration does not increase with the expected U.S. economic recovery, where will California farmers get replacement farm workers? The answer depends on immigration policy. Will currently unauthorized farm workers be legalized and required to continue to

work in agriculture or will replacement workers be guest workers from abroad?

H-2A and AgJOBS

The federal government has had an agricultural guest worker program for most of the past century. The current H-2A program certified 7,000 U.S. farmers to fill more than 90,000 farm jobs with guest workers in FY10. The H-2A program requires farm employers to try to recruit U.S. workers under federal and state supervision, offer guest workers free housing, and pay them a super minimum wage called the Adverse Effect Wage Rate of \$10.24 an hour in California in 2012.

In December 2000, farm employer and worker advocates negotiated the Agricultural Job Opportunity Benefits and Security Act (AgJOBS) to legalize currently unauthorized farm workers and make the three major employer-friendly changes to the H-2A program. They

hoped that Congress would enact this revised AgJOBS, but it was blocked by those opposed to “amnesty.”

Most farm employers and worker advocates continue to urge enactment of the 12-year old AgJOBS. Senator Dianne Feinstein (D-CA) introduced a version in 2009 that would grant Blue Card temporary legal status to up to 1.35 million unauthorized foreigners who did at least 150 days or 863 hours of farm work in the 24-month period ending Dec. 31, 2008 (*Rural Migration News*). If Blue Card holders continued to do farm work over the next three to five years (at least 150 days of farm work a year for three years, or at least 100 days a year for five years), they and their families could become legal immigrants. The employer-friendly changes to the H-2A program include the “big three” desired by farm employers: attestation, housing vouchers, and a reduced AEWR.

Farm employers and workers today are in a period of uncertainty. However, employer-friendly changes to the H-2A program or a new guest worker program could accompany a federal mandate that all employers use E-Verify to check the legal status of newly hired workers. Representatives who favor mandatory E-Verify have offered new guest worker programs administered by

USDA rather than DOL that include attestation, reduced or no housing requirements, and lower minimum wages without legalizing currently unauthorized workers.

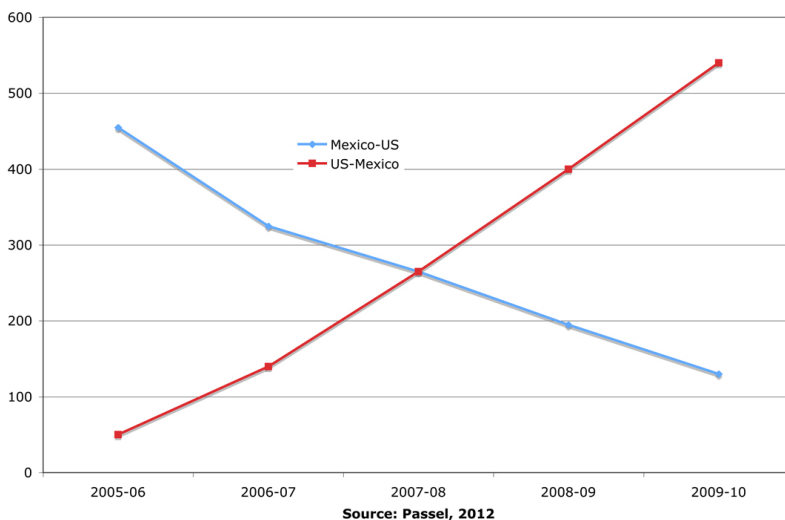
Conclusions

California is at another of its periodic farm labor crossroads. Most hired workers are not authorized to work legally in the United States. Avoiding the risk of enforcement by hiring workers via labor contractors and other intermediaries may have reached its limits, as farm employers report increased difficulty recruiting workers directly and note that many contractors have fewer workers than desired.

If there were a serious farm labor shortage, the most likely government response would be to roll back H-2A regulations on a short-term emergency basis, perhaps by waiving supervised recruitment of U.S. workers and relaxing the free-housing regulations. Some farmers planning for a future of fewer and more expensive workers are developing labor-saving machines and mechanical aids that raise worker productivity (Calvin and Martin 2011), while others are hoping that legalization and easier access to guest workers can maintain the labor status quo.

Philip Martin is a professor in the UC Davis Department of Agricultural and Resource Economics. For more information, you may contact him at plmartin@ucdavis.edu.

Annual Mexico-US and US-Mexico Flows, 2005-10 (000)



Reducing the risk of heat-related illness in Western ag workers

By Rebeca Gallo, WCAHS Community Health Program Rep.

Despite regulations, agricultural workers regularly succumb to preventable heat-related illness (HRI) at an unacceptably high rate. Physiological, cultural and work place information collected in the fields will define vulnerability to HRI and allow us to devise prevention strategies meaningful to the overwhelmingly Latino workforce.

Dr. Marc Schenker's field research project, titled, "Reducing the risk of heat-related illness in Western Agricultural workers," brings together investigators from medicine, epidemiology, public health, physiology, anthropology, and community outreach and education. The group's goal is to obtain novel data on internal body temperature as it relates to crop type and geography, external heat, and internal metabolic loading.

Over the course of the summer 2012, a team of students and Center investigators traveled throughout the Central Valley to gather data. They visited six different farms that included a variety of crops of varying heights, and recruited 100 farmworkers, monitoring five workers a day for three days at each farm.

Participants swallowed a thermometer sensor or "heat pill" to record their internal temperature, and they wore a device to monitor their heart rate during summer agricultural field work. Investigators measured personal ambient temperature and humidity with the use of a "heat pen" that workers wore during their shift. Two blood samples (about 5 drops of blood) were taken from each of the volunteers to determine changes in hydration by comparing pre- and post-shift blood electrolyte levels. Researchers also collected data on environmental conditions, including temperatures, by using stationary meteorological equipment.

During their work shift, investigators observed participants every 15 minutes and noted the sun exposure, work rate,



From left, standing, Jose Gutierrez, Javier Castro, Oscar Valenzuela, Anna Jensen, Rebeca Gallo. Front, Harsimran Singh.

crop and crop height, the type of task and behavior that the workers performed, and the type of environment in which they were working. The observations allow investigators to better understand the change or lack of change in physiological measurements. Researchers conducted pre- and post-shift questionnaires to workers to examine current behaviors, workers' knowledge of preventative measures, understanding of environmental conditions, personal health and work-related factors that increase vulnerability to heat-related illnesses.

The field research team included WCAHS team leaders Jose Gutierrez and Rebeca Gallo; UC Davis undergraduates Javier Castro and Harsimran Singh; and graduate students Anna Jensen and Oscar Valenzuela. Study coordinator Diane Mitchell worked with study investigators Jim Jones, DVM, and Marc Schenker, MD, MPH, on site and in the lab, adjusting team deployment according to location changes and the weather.

Research findings and evaluated interventions will be translated into educational materials in a manner that will have the highest impact on the most vulnerable farm workers

For more information on this project, contact Rebeca Gallo, WCAHS Community Health Program Representative, at rgallo@ucdavis.edu.



Jim Jones, DVM, (center) discusses the heat sensing equipment with student researchers.

Western Center for Agricultural Health & Safety

Request for research proposals for FY 2012-2013 Seed Grants

WCAHS is accepting applications for its annual Seed Grant for Agricultural Health & Safety Proposals. Preference will be given to proposals describing innovative projects and those addressing topical and important issues, such as farm worker injury prevention, immigration and work force, infectious diseases, and others. Projects with matching funds or possible future funding are also encouraged. Graduate students are especially invited to apply; a letter of support from the major professor is required.

- DEADLINE:** Sept. 17, 2012 for FY 2012-2013 awards – Oct. 12, 2012, through Sept. 10, 2013 (possibly renewable)
- AWARD RANGE:** \$5,000 – \$20,000
- ELIGIBILITY:** Faculty with P.I. eligibility; Post-Doctoral Fellows; and Graduate Students
- SUBMISSION:** Guidelines and submittal documents can be found at <http://agcenter.ucdavis.edu>



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Calendar

September 14

WCAHS Annual Strategic Planning Retreat at the California Endowment, 1414 K Street, Suite 500, Sacramento

October 1

Kassim Al-Khatib, UC IPM Program Director, will present "Putting California First: UC-IPM Delivering on Promise" for the WCAHS Seminar Series, 4–5 p.m., CHE - Old Davis Road (3rd gate on the left after crossing the RR tracks)

November 5

Rima Habib, Ph.D., MPH, MOHS, Faculty of Health Sciences, American University of Beirut, will present "Health of Agricultural Workers in Lebanon," 4–5 p.m., CHE - Old Davis Road (3rd gate on the left after crossing the RR tracks)

For upcoming 2012–2013 WCAHS Seminars, please visit <http://agcenter.ucdavis.edu>