

The H-2A Program From The Employers' Perspective

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Current and recent developments:

Sen. Bob Menendez, D-N.J., and Rep. Linda Sánchez, D-Calif., today introduced President Biden's immigration proposal (February 2021)

- **Eliminates 3 and 10-year bars**
- **Eliminates age-outs (21 years and older)**
- **Eliminates employment-based per country limitations**
- **Eliminate Public Charge Rule**

- **Farm Workforce Modernization Act passed the House in 2021 and is now in the Senate**
- Current H-2A Program continues to grow: DOL withdraws H-2A Modernization Rule for further review (January 20, 2021)
- Impact of COVID-19 on current agricultural workforce

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H-2A Temporary Agricultural Program –
Selected Statistics, Fiscal Year (FY) 2021 Q1

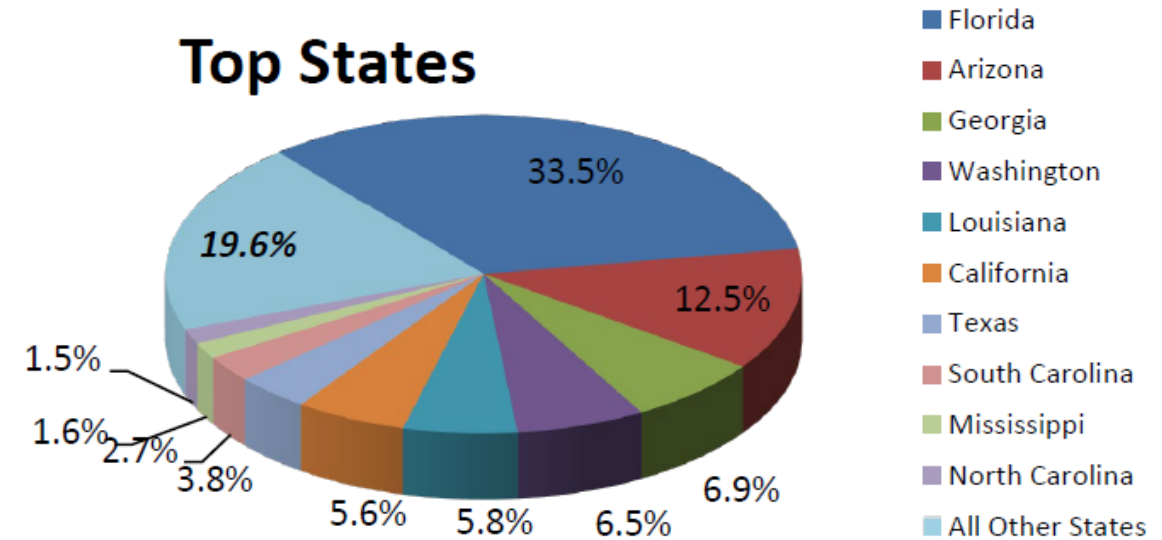
Applications Received¹

FYTD	Q1 (Oct-Dec)	Q2 (Jan-Mar)	Q3 (Apr-Jun)	Q4 (Jul-Sept)	% Change FY 2020
4,556	4,556	--	--	--	28.5%

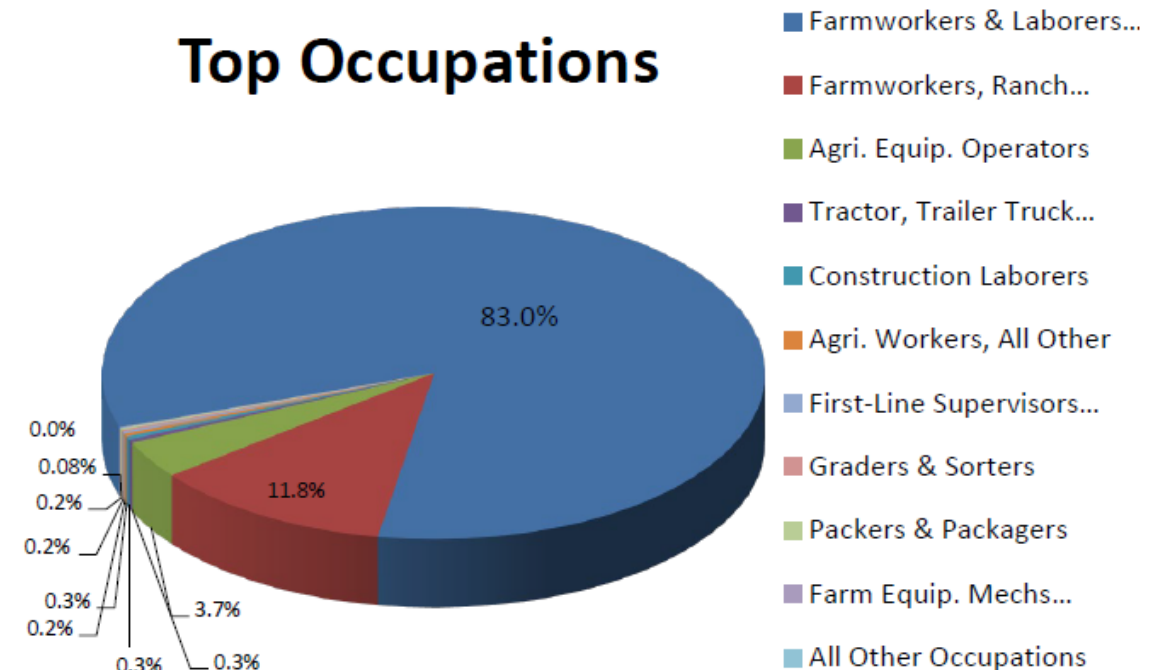
Applications Processed

Determination	FYTD	Q1	Q2	Q3	Q4
Total Processed	2,720	2,720	--	--	--
- Certified	2,570	2,570	--	--	--
- Denied	71	71	--	--	--
- Withdrawn	79	79	--	--	--
Positions Requested	51,181	51,181	--	--	--
Positions Certified	48,929	48,929	--	--	--
Processed Timely ²	97.6%	97.6%	--	--	--

Top States



Top Occupations



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H-2A Temporary Agricultural Program –
Selected Statistics, Fiscal Year (FY) 2021 Q1

Review of Positions Certified FY 2021 Q1 (% of total certified FY 2021 Q1)						
Top 10 States of Employment	Florida	16,435	33.6%	Top 10 Employers³ (based on unique FEINs)	Fresh Harvest, Inc.	1,702 3.5%
	Arizona	6,101	12.5%		Foothill Packing, Inc.	1,473 3.0%
	Georgia	3,366	6.9%		Temp.Labor, LLC	1,376 2.8%
	Washington	3,205	6.6%		Overlook Harvesting Company, LLC	842 1.7%
	Louisiana	2,831	5.8%		Tanimura & Antle Fresh Foods, Inc.	800 1.6%
	California	2,765	5.7%		Ag Labor, LLC	661 1.4%
	Texas	1,843	3.8%		The Growers Company, Inc.	641 1.3%
	South Carolina	1,315	2.7%		Citrus Harvesting, Inc.	620 1.3%
	Mississippi	801	1.6%		Everglades Harvesting, Inc.	600 1.2%
	North Carolina	744	1.5%		Statewide Harvesting & Hauling, LLC	586 1.2%

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H-2A Temporary Agricultural Program –
Selected Statistics, Fiscal Year (FY) 2020 EOY

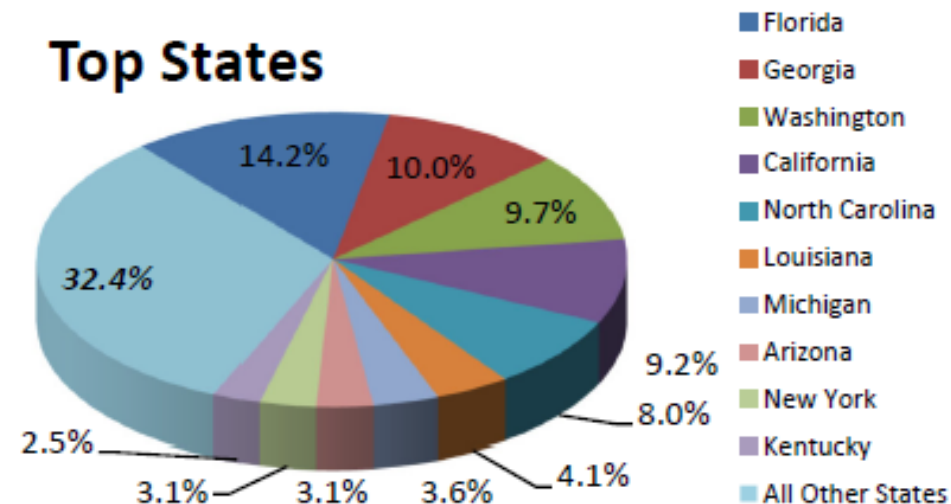
Applications Received¹

FY	Q1 (Oct-Dec)	Q2 (Jan-Mar)	Q3 (Apr-Jun)	Q4 (Jul-Sept)	% Change FY 2019
14,131	3,545	6,129	2,681	1,776	8.0%

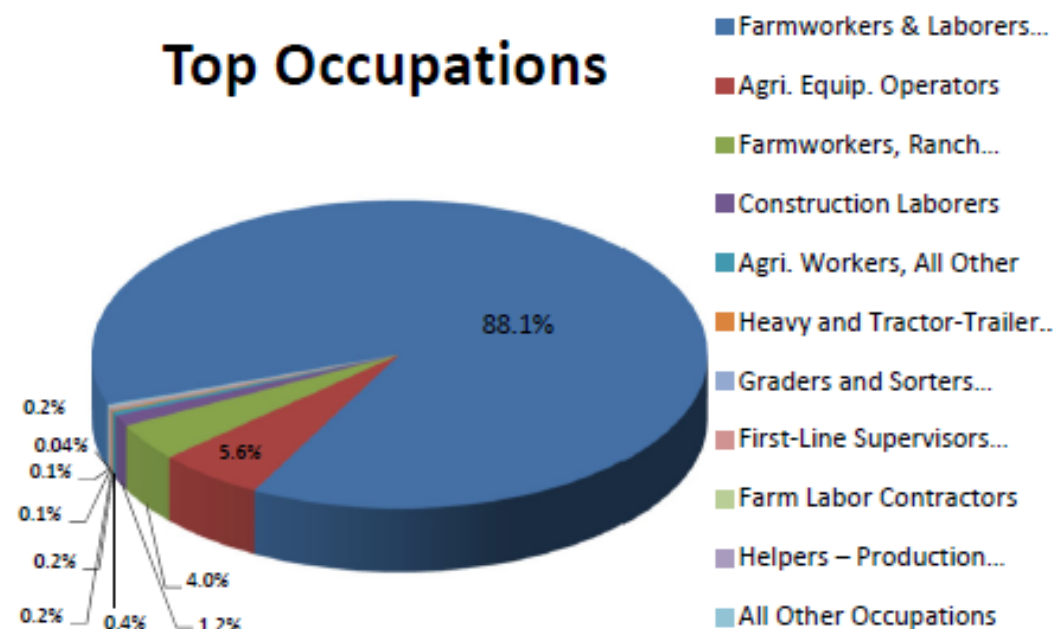
Applications Processed

Determination	FY	Q1	Q2	Q3	Q4
Total Processed	14,063	2,111	6,820	3,095	2,037
- Certified	13,552	1,991	6,654	2,964	1,943
- Denied	247	62	73	67	45
- Withdrawn	264	58	93	64	49
Positions Requested	286,900	43,178	100,248	88,136	55,338
Positions Certified	275,430	40,844	97,375	85,044	52,167
Processed Timely ²	96.8%	97.8%	96.8%	95.9%	96.0%

Top States



Top Occupations



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H-2A Temporary Agricultural Program – Selected Statistics, Fiscal Year (FY) 2020 EOY

Review of Positions Certified FY 2020 EOY (% of total certified FY 2020 EOY)

Top 10 States of Employment

Florida	39,064	14.2%
Georgia	27,614	10.0%
Washington	26,832	9.7%
California	25,453	9.2%
North Carolina	22,052	8.0%
Louisiana	11,332	4.1%
Michigan	9,912	3.6%
Arizona	8,602	3.1%
New York	8,482	3.1%
Kentucky	6,952	2.5%

Top 10 Employers³ (based on unique FEINs)

North Carolina Grower's Assoc., Inc.	10,650	3.9%
Fresh Harvest, Inc.	5,326	1.9%
WAFLA	4,358	1.6%
Foothill Packing, Inc.	3,199	1.2%
Farm Op Kuzzens H2A, LLC	2,998	1.1%
Rancho Nuevo Harvesting, Inc.	2,864	1.0%
Overlook Harvesting Company, LLC	2,589	0.9%
Templabor, LLC	2,252	0.8%
Zirkle Fruit Company	2,191	0.8%
R & R Harvesting, Inc.	2,056	0.8%

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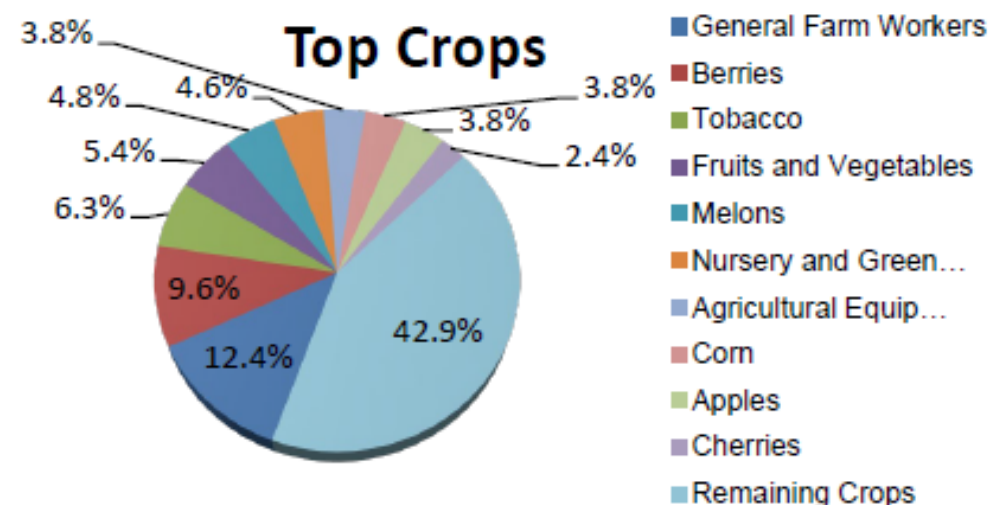
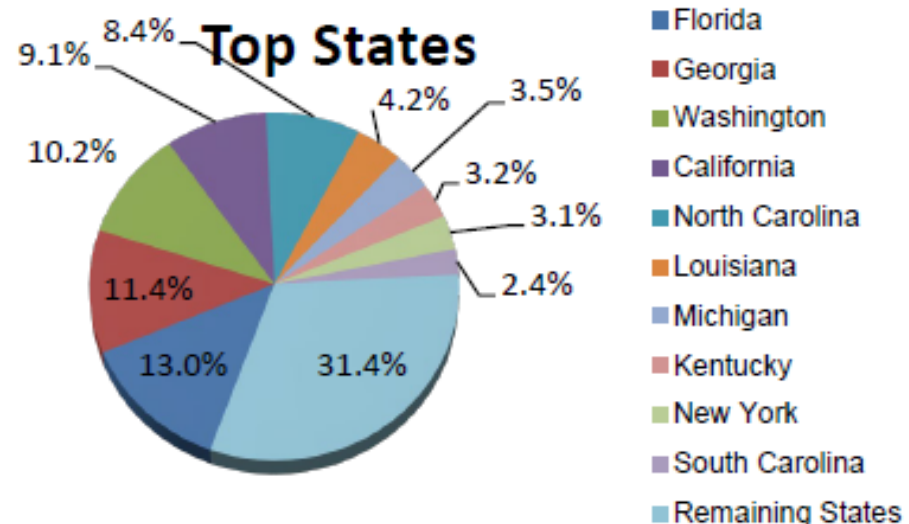
H-2A Temporary Agricultural Labor Certification Program - Selected Statistics, FY 2019

Applications Received¹

FYTD	Q1	Q2	Q3	Q4	% Change FY 2018
13,081	3,175	5,380	2,948	1,578	10.8%

Applications Processed³

Determination	FYTD	Q1	Q2	Q3	Q4
Total Determinations	13,095	1,964	5,800	3,357	1,974
- Certified	12,626	1,880	5,660	3,242	1,844
- Denied	211	34	67	53	57
- Withdrawn	258	50	73	62	73
Positions Requested	268,729	36,477	91,161	85,454	55,637
Positions Certified	257,667	35,449	87,868	82,094	52,256
Processed Timely ³	86.1%	92.6%	77.5%	85.6%	96.3%



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H-2A Temporary Agricultural Labor Certification Program - Selected Statistics, FY 2019

Review of Positions Certified FY 2019 EOY (% of total certified FY 2019 EOY)			
Top 10 States	Florida	33,598	13.0%
	Georgia	29,480	11.4%
	Washington	26,226	10.2%
	California	23,321	9.1%
	North Carolina	21,605	8.4%
	Louisiana	10,816	4.2%
	Michigan	9,096	3.5%
	Kentucky	8,315	3.2%
	New York	8,104	3.1%
	South Carolina	6,082	2.4%

Top 10 Employers	North Carolina Growers Association (NCGA)	11,223	4.4%
	Fresh Harvest, Inc.	4,812	1.9%
	WAFLA	4,369	1.7%
	Zirkle Fruit Company	3,400	1.3%
	Farm-Op Kuzzens H2A, LLC	2,658	1.0%
	Ag Labor, LLC	2,409	0.9%
	Foothill Packing, Inc.	2,398	0.9%
	Overlook Harvesting Co.	2,396	0.9%
	R & R Harvesting, Inc.	2,094	0.8%
	Rancho Nuevo Harvesting	2,024	0.8%

Hourly AEWs by State

Alabama	\$11.81
Arizona	\$13.67
Arkansas	\$11.88
California	\$16.05
Colorado	\$14.82
Connecticut	\$14.99
Delaware	\$14.05
Florida	\$12.08
Georgia	\$11.81
Hawaii	\$15.56
Idaho	\$14.55
Illinois	\$15.31

Indiana	\$15.31
Iowa	\$15.37
Kansas	\$15.89
Kentucky	\$12.96
Louisiana	\$11.88
Maine	\$14.99
Maryland	\$14.05
Massachusetts	\$14.99
Michigan	\$14.72
Minnesota	\$14.72
Mississippi	\$11.88
Missouri	\$15.37

Montana	\$14.55
Nebraska	\$15.89
Nevada	\$14.82
New Hampshire	\$14.99
New Jersey	\$14.05
New Mexico	\$13.67
New York	\$14.99
North Carolina	\$13.15
North Dakota	\$15.89
Ohio	\$15.31
Oklahoma	\$13.03
Oregon	\$16.34

Pennsylvania	\$14.05
Rhode Island	\$14.99
South Carolina	\$11.81
South Dakota	\$15.89
Tennessee	\$12.96
Texas	\$13.03
Utah	\$14.82
Vermont	\$14.99
Virginia	\$13.15
Washington	\$16.34
West Virginia	\$12.96
Wisconsin	\$14.72
Wyoming	\$14.55

Hourly AEWs by State

Oregon	\$16.34
Washington	\$16.34
California	\$16.05
Kansas	\$15.89
Nebraska	\$15.89
North Dakota	\$15.89
South Dakota	\$15.89
Hawaii	\$15.56
Iowa	\$15.37
Missouri	\$15.37
Illinois	\$15.31
Indiana	\$15.31

Ohio	\$15.31
Connecticut	\$14.99
Maine	\$14.99
Massachusetts	\$14.99
New Hampshire	\$14.99
New York	\$14.99
Rhode Island	\$14.99
Vermont	\$14.99
Colorado	\$14.82
Nevada	\$14.82
Utah	\$14.82
Michigan	\$14.72

Minnesota	\$14.72
Wisconsin	\$14.72
Idaho	\$14.55
Montana	\$14.55
Wyoming	\$14.55
Delaware	\$14.05
Maryland	\$14.05
New Jersey	\$14.05
Pennsylvania	\$14.05
Arizona	\$13.67
New Mexico	\$13.67
North Carolina	\$13.15

Virginia	\$13.15
Oklahoma	\$13.03
Texas	\$13.03
Kentucky	\$12.96
Tennessee	\$12.96
West Virginia	\$12.96
Florida	\$12.08
Arkansas	\$11.88
Louisiana	\$11.88
Mississippi	\$11.88
Alabama	\$11.81
Georgia	\$11.81
South Carolina	\$11.81

Meal Deduction and Reimbursement Rates: 2021

- **\$13.17 per day where meals are provided**
- **\$55 per day with receipts**
- **Daily meal deduction in employer housing where there are no kitchens**
- **Inbound/Outbound Transportation**

H-2A
Employer
Challenges
and Best
Practices

How Successful Agricultural
Employers Navigate the
H-2A Program Today

Be: Careful, Clear, and *Kind*

- Understand preferential treatment rules
- Understand non-discrimination rules
- Understand document and payroll and retention rules
- Understand $\frac{3}{4}$ Guarantee rules
- Understand recruitment and hiring rules
- Understand State and Federal employment laws and Wage and Hour rules
- Understand Corresponding Employment
- Understand Housing Rules: Federal, State, and Local
- UNDERSTAND SAFETY AND HUMAN RESOURCES RULES!!

COVID-19 Related Issues:

- H-2A, foreign ag workers on other visas (TN and H-2B), and domestic ag workers are deemed “essential” for purposes of border crossing and consulate closures due to COVID-19
- Outbreaks of COVID in ag industry are geographically related (i.e. Border areas hardest hit with limited or no outbreaks in more remote areas: Sonoma, CA)
- State-specific restrictions on housing and transportation: California has the most restrictive rules in the nation: litigation is pending

Questions?