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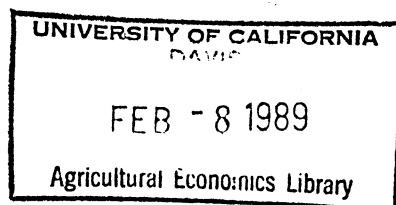
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INITIAL EFFECTS OF THE NEW IMMIGRATION LAW
ON CALIFORNIA AGRICULTURE

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Immigration -- Legislation

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INITIAL EFFECTS OF THE NEW IMMIGRATION LAW ON CALIFORNIA AGRICULTURE

Will the Immigration Reform and Control Act of 1986 (IRCA) change the structure of agriculture? Various effects of this sweeping law have been publicly forecast, feared, and perceived as already emerging. Agricultural producers, consumers, and public policy makers want to know whether severe shortages of farm labor are in the offing.

Predicting the future is always risky business, and significant parts of the law affecting agriculture are not yet in effect. Nonetheless, results from an October 1987 survey of California farm employers provide tentative answers to six key questions:

1. Do agricultural employers understand the new immigration law?
2. How heavily does California agriculture rely on alien labor?
3. Is IRCA causing farmers to employ fewer aliens?
4. Has the law already caused labor shortages and crop loss?
5. Are agricultural employers helping their current and former alien employees become legal residents?
6. Are employers changing their management practices to attract and retain more legally employable workers?

Background

The 1986 law was designed to control illegal immigration. It prohibits the employment of persons not legally entitled to work in the United States. It imposes on all employers new hiring and record-keeping obligations, backed by a schedule of stiff fines for non-compliance. The new law also allows many people who have lived or worked here illegally to acquire legal resident status. While affecting all employers and employees, IRCA has several provisions particularly significant to people in agriculture.

Parts of the law assist farmers in transition to an entirely legal workforce. One new means of becoming a legal resident, the Special Agricultural Worker (SAW) program, is only open to persons who have worked in "fruits, vegetables, or other perishable commodities" at least

90 days between May 1985 and May 1986. These "SAW crops," specifically defined in a U.S. Department of Agriculture (USDA) regulation, include almost all plants grown primarily for human food. Legalized aliens may live and work anywhere in the United States, and the law counters the potential departure of SAWs from agriculture with provision for entry of "replenishment agricultural workers" (RAWs) each year from 1990 to 1993.

In addition IRCA defers until December 1, 1988, enforcement of employer sanctions for hiring ineligible workers to perform "seasonal agricultural services" (in SAW commodities only). After months of confusion and controversy, the INS formally stated in January 1988 that this grace period also excuses failure to complete the required employment eligibility (I-9) form.

Underlying these special considerations of agriculture are several assumptions about buyers and sellers in the farm labor market. By no means are their expected impacts assured. Employers are required to conform to certain hiring standards and behooved to rethink their non-regulated management practices. Farmers face decisions about not only new legal obligations but also their entire labor relations structure.

The accuracy of predictions about agriculture after immigration reform cannot be known until well after December 1, 1988 (when the SAW application period ends and employer sanctions become fully applicable in agriculture). But responses to the law have begun to unfold.

Survey Method and Sample

In late October 1987, nearly a year after IRCA was signed, we surveyed agricultural employers in California to find out about their initial adjustments to the new law. The California Agricultural Statistics Service, Department of Food and Agriculture (CDFA), drew a random sample of 2000 employers for the study. In both a pre-survey postcard and a letter accompanying the questionnaire we explained to recipients the purpose of the survey and assured them of anonymity.

Of 1938 employers who received our survey instrument, 487 (25%)

responded. Strong interest in the issues explored was indicated in both the return rate and a great number of written comments. The survey respondents are representative of all California agricultural employers, as characterized by the 1982 Census of Agriculture, in terms of geographic and commodity distribution. Returns from medium sized organizations exceed, however, and from small organizations fall short of their proportionate shares of the population.

Our present analysis is based on 444 California-based responses that provide workforce size and commodity identification data. Sample distribution by commodity, region, and size is shown in Table 1. Employers are counted in the CDFA reporting region where they produce output of greatest value.

Respondents were asked to indicate up to three types of commodities from which they derive most revenue. Table 1 reports the sample portion mentioning each crop type (sum exceeds 100% because most respondents have multiple mentions). A large majority (68.0%) of survey respondents produce only SAW crops. Commodity groups that do not fit the "SAW crops" definition are dairy, poultry, other livestock, and other crops (mostly silage and cotton).

Average firm size reported is 17.8 employees year-around, 64.3 at seasonal peak. Peak employment ranges up to 1900, though half the firms employ 20 or less. About 65% of respondents operate in more than one location. More than one-third regularly attend meetings of a trade or commodity association. In the last two years the INS Border Patrol had visited 22.2% of respondent firms to question employees about their right to be in the United States.

Less than 2% have any employees represented by a union. Since those firms are much larger than average, 9% of seasonal peak employees in the sample overall are unionized.

Survey Findings

Our preliminary findings are organized in six sections, corresponding to the questions posed above.

INFORMATION AND UNDERSTANDING

Whether employers comply with any law depends in part on their understanding of it, but information on IRCA has been unevenly available to agricultural firms. Official guidelines were slow to reach many. By late October only 62% of survey respondents reported receiving the official "Handbook for Employers" from the INS.

Employer associations, educational and social service organizations, and news media were advising employers and aliens long before the INS launched any substantial educational effort. Survey respondents reported that the most useful information sources were periodicals, seminars, and newsletters (Table 2). About 40% specified topics on which they need clarification. Most frequently mentioned were: documentation required to establish employment eligibility; new sources of farm labor supply; the deferral of sanctions for employers of workers in SAW commodities; and unity of families in which not all qualify for legal resident status.

One section of the survey, containing nine true-false-unsure items and three fill-in the blank items, assesses knowledge of major IRCA provisions. On average, only 6.2 (51.8%) of the 12 items were answered correctly. Fully 21.2% of answers on the true-false items were unsure.

As Figure 1 shows, only 7.8% feel very certain about what IRCA requires of them. Employers in this group did better on the twelve-item "exam" than groups who are less certain; but they still missed, on average, more than one-third of the questions. Only one-third of them filled in the correct maximum fine for hiring an ineligible alien.

ALIENS IN AGRICULTURE

Virtually everybody familiar with California agriculture believes that alien workers constitute a major proportion of all farm employees. This notion is inconsistent with findings of the USDA Hired Farm Working

Force Survey of 1983. Our survey, however, confirms that California agriculture does depend heavily on labor provided by aliens.

In both 1986 and 1987, 85% of agricultural employers hired one or more aliens (Table 1). Virtually as many firms hired illegal as legal alien workers in 1986. In 1987 fewer firms (55%) hired illegal aliens and more (77%) hired legal aliens. As a result, the fraction of firms hiring any aliens was unchanged.

About as many legal aliens (37%) as illegal aliens (38%) were hired in 1986. In 1987, while the percentage of jobs going to illegal aliens fell to 32%, the share to legal aliens rose to 41%. All aliens thus constituted nearly as many of the hires in 1987 (72%) as in 1986 (75%).

Employment of illegals was most common among producers of SAW commodities, especially grapes (82%) and other fruit and treefruit (72%), as shown in Table 1. It was more frequent in southern California and among larger employers. In almost every employer category there was some year-to-year shift of reliance from illegal aliens to legals. A high proportion, even in non-SAW crops where IRCA enforcement is not deferred, nevertheless continued to hire one or more illegals in 1987.

COMPLIANCE WITH HIRING AND DOCUMENTATION RULES

Rates of agricultural employer compliance with the new law in 1987 were undoubtedly tempered by both confusion about its requirements and knowledge about the deferral of sanctions. Fewer than one-quarter of survey respondents had already fired or refused to hire any worker for not having proof of employment eligibility (Table 3). Employers in Southern California were more likely to discriminate against illegals, as the law prescribes. Firms that had been visited within the past two years by the INS Border Patrol were 50% more likely than others to have fired or refused to hire illegals. Similarly, employers who knew the maximum fine were 42% more likely to have done so.

A higher proportion (55%) of firms intend to hire only legally eligible workers in 1988 than reported doing so in 1986 (29%) or 1987

(45%). Smaller farms (1 to 5 employees at seasonal peak) are planning to rely more than the sample average on eligible employees, and farms with between 16 and 50 employees less (Table 3). Intent to hire legally is generally highest among employers that hired no illegals in 1986 or 1987. Employers who regularly attend association meetings are 11% more likely to rely solely on legal employees in the future.

Most respondents willing to hire ineligible workers over the next year (34%; another 11% report themselves as uncertain) indicate that they will do so if they cannot find enough legals to perform the work. Several comments and supplementary letters show a desire to operate legally outweighed by a resolve to get the work done by whatever means practical. In the words of one farmer, "No way will I stand by and watch my crop rot in the fields. I will hire anyone who comes along." Another recognized a basic limitation in the main control mechanism created by IRCA: "I believe that I will comply with the law to the best of my ability and still unintentionally hire illegals because their forged documents really do look legitimate to me."

Rules and deadlines for verifying employee eligibility are different for hires made before November 7, 1986, from then till and June 1, 1987, and after May 31. Only 14% of respondents had completed the I-9 form (optional) for hires made before November 7, and 28.1% for hires from November to June (mandatory to have done by September 1, 1987). A majority had begun to complete the I-9 (mandatory within 3 days of beginning work) for hires from June on (Table 3), and they had started to do so, on average, in mid-July.

LABOR SHORTAGES AND CROP LOSS

In spring 1987 general confusion about the new law, regulations restricting farm workers in Mexico from entering the U.S. to file SAW applications, and spot shortages of farm labor fed fears of widespread summer harvest disruptions. Agriculture took a regular place on the nightly news, and government agencies readied to cope with crisis. The INS convened a public meeting in Irvine to promote an exchange of

informed views and suggestions among representative of grower, labor, and Federal organizations. The Employment Development Department (EDD) initiated a weekly farm labor report.

The most pessimistic scenarios were not realized. Transitional rules and facilities eased the entrance of pending SAW applicants from Mexico. Temporary relaxation of documentation standards for proving work eligibility eased the employment of applicants from both sides of the border. Harvests progressed through the summer and fall with little abnormality. Only 10.6% of survey respondents report any 1987 crop loss due to labor shortage. They estimate an average 17.9% loss of potential value of crops, which span the full range of commodities in the sample.

LEGALIZATION ASSISTANCE

Agricultural employers may have a threefold interest in helping farm workers through the legalization process. First, many farmers care about the welfare of the people who have worked for and with them. Second, they expect that their assistance might improve relations on the farm and be reciprocated by greater loyalty. Third, the more legal workers there are, the better able employers will be to comply with the new law. In addition, and of great concern to association leaders with industry-wide perspectives, the total number of SAW-legalized workers establishes upper limits for RAW admissions in later years.

The survey found a high level of employer involvement in legalizing alien workers. Information about the new opportunities to obtain legal status was provided in individual discussions (55.2% of employers), group meetings (20.3%), short written notices (15%), and detailed written explanations (9.3%). To facilitate the application process, 35% of employers supplied INS forms and 32.0% referred workers to Qualified Designated Entities. Respondents specified several other types of help, including money to pay fees, transportation, and personal completion of forms. One says he gave workers "whatever they need."

Letters or documents to verify past employment that qualifies

workers for the SAW Program were the type of assistance by far most commonly provided (77.9% overall). Employers who had hired illegals in 1986 or 1987 were understandably more likely to provide documents (90%) than those who did not (55%). The high rate of such assistance among respondents claiming to have hired no illegals in those years may reflect either the stability of their employment relations (i.e., that their SAW-qualifying illegal employees were hired before 1986) or the invalidity of their reports.

Not all employers are pleased with the fruits of their help to employees. Two lengthy letters from respondents convey surprise and dismay that newly legalized SAWs are leaving for other employment. Both employers consider themselves good to work for and feel rather betrayed by workers moving on as well as by the Federal government cutting off their supply of affordable labor. Expressing familiar, firmly rooted beliefs about the farm labor market "difference," one says:

After I spent countless hours filling out forms, driving workers to meetings, and helping them pay expenses, now they are free to up and leave for another company even [out of] agriculture. I don't mind competing for workers with another grower, but I cannot pay the same as canneries, building contractors, and trucking companies . . . Is this fair? I thought SAW stood for "special agricultural workers." Who is going to pick our crops? Americans? Hah! If I knew then what I know now, I wouldn't have helped one employee to qualify for SAW.

MANAGEMENT PRACTICES

Survey respondents made few management changes in 1987 to avert disruptions generated by the new law. Though only 38% used farm labor contractors to recruit workers in either 1986 or 1987, 13% relied on them more and 2% less in the latter year. Referrals by supervisors, other employees, and grower acquaintances, used by a large majority of the sample, were other means to which employers resorted more, but to a much lesser extent, in 1987.

Walk-in recruitment, a source of workers for the greatest number of respondents (71%), was used less in 1987 by 13.2% and more by only 3.7%. Written advertisements, visits to worker homes, and EDD referrals were each used in either year by less than one-fifth of employers.

Employers report little if any change from 1986 to 1987 in both relative use of piece-rates (in contrast to time-based pay) and foreman/worker ratios. A bare majority (53%) say that they paid an average of 11.3% more in 1987 than in 1986 per unit of field work, though many factors affect such pay rates.

Thirty respondents specified major business adjustments to IRCA already made or contemplated. Most common were (1) mechanizing or changing crop mix to reduce labor intensity of operations, and (2) scaling down or leaving agriculture.

Conclusion

Immigration reform promises to have far-reaching social and economic impacts, but much time will pass before they are all revealed. Employers and aliens will ultimately render them through decisions and actions. The context within which such choices are made, however, was not completely established by the 1986 law, and it remains fluid.

The statute directed Federal agencies, led by the Immigration and Naturalization Service (INS), to write many regulations defining key terms and implementation procedures. Even after months of development, voluminous "final rules" have been altered in response to judicial decision, interest group pressure, apparent unworkability, and public outcry. Legislative amendments and further litigation will surely modify further this complex law.

Our survey does not directly address at least two major factors that will weigh heavily in determining outcomes of the law: (1) the vigor and ingenuity with which the INS will enforce IRCA, and (2) the relative availability and attractiveness of farm and non-farm earnings opportunities to SAW-legalized aliens as well as other potential farm workers. Nonetheless, survey results should be useful to those considering refinements in and adjustments to the new immigration law. Although self-reported data ought to be interpreted with caution, the likely direction of their bias can be surmised.

In summary, we found that:

- 1) Many agricultural employers are still justifiably uncertain about the new law and what it requires of them.
- 2) California agriculture relies heavily on alien workers, about half of whom were here illegally in 1987. The reduced hiring of illegal aliens in 1987 was largely offset by increased hiring of legals. If employers are underreporting their now-proscribed behavior, the survey provides conservatively low estimates of illegals in the work force.
- 3) Farmers are inclined to comply with the new law, but not if it means losing their crops. A majority intends to hire only legals in the future, but a large minority acknowledges readiness to hire illegals if faced with labor shortages. A majority began to document employee eligibility, even though penalties for not doing so were not yet applicable to most.
- 4) Little crop loss due to labor shortage was experienced last year, but circumstances in 1987 did not present a fair test of labor market adjustment to the new law. Respondents wishing to send a message to policy makers may be overstating losses. If their reports are accurate, however, losses in the future could be substantial.
- 5) Agricultural employers put much effort into helping workers apply for legal status. If SAW-legalized aliens are fewer than expected, it is apparently not for want of grower cooperation.
- 6) Although employers started considering major business adjustments, they made few non-mandated management changes to cope with IRCA in 1987. They relied somewhat more on farm labor contractors to procure labor. Utilization of written advertisements and the EDD to recruit workers remained quite low.

It is too early to fully answer all of the questions about what immigration reform will mean for California or U.S. agriculture. But it is surely time to be asking them. So far, the rules have changed, but the players remain much the same.

Table 1. Employers Hiring Any Aliens in California Agriculture,
1986-87

	Survey Sample N %		Any Aliens		Legal Aliens		Illegal Aliens	
			1986	1987	1986	1987	1986	1987
			---percent of employers hiring one or more---					
All Employers	444	100	85	85	70	77	71	55
SAW Crops								
All SAW	302	68	93	92	77	83	79	65
Mixed	82	18	78	82	69	76	62	42
No SAW	60	14	52	49	37	40	37	21
Commodity								
Poultry & Dairy	44	10	69	71	47	63	50	29
Livestock	58	13	56	50	46	44	42	24
Ornamental & Nurs.	45	10	97	94	83	91	72	59
Grapes	119	27	97	99	74	87	93	82
Nuts	96	22	91	90	79	84	72	52
Citrus	40	9	91	86	76	86	88	58
Other Fruit	143	32	95	94	83	86	85	72
Vegetables	55	12	98	98	83	85	79	57
Grains	71	16	71	75	62	69	50	37
Edible Field Crops	54	12	84	87	77	83	58	47
Other	76	17	73	77	63	69	55	44
Region								
Southern CA	66	15	96	87	69	80	85	56
San Joaquin Valley	225	51	88	91	73	82	74	61
Sacramento Valley	60	14	69	66	59	58	55	40
Central Coast	69	16	86	86	76	79	71	55
Other CA	24	5	73	67	59	57	45	43
Size (employees at peak)								
1 - 5	97	22	53	53	39	45	33	24
6 - 15	110	25	86	86	66	81	63	47
16 - 50	139	31	96	94	84	87	88	67
51+	97	22	100	99	86	86	93	75

Table 2. "How Much Useful Information About IRCA
Have You Gotten Through the Following Channels?"

	Little or None	Some	Much
	----percent of employers----		
Newspapers, Magazines, & Other Periodicals	27	59	14
Seminars & Newsletters	35	44	21
INS Documents	36	51	13
Radio & Television	55	43	3
Private Consultation	64	26	10
Other	71	14	15

Fig. 1 Employer Certainty and Knowledge about IRCA

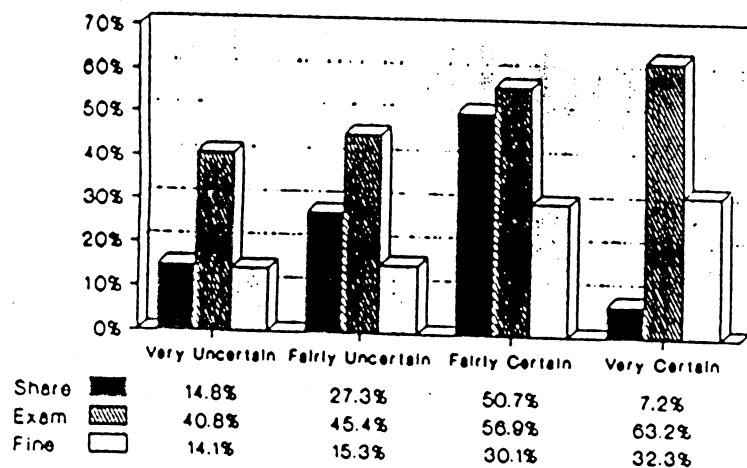


Table 3. Employers Complying With IRCA

	Completing 1-9 (Hires After May)	Fired or Refused to Hire Illegal	Intend to Hire Only Legal
-----percent of employers-----			
All Sectors	55	24	55
SAW Crops			
All SAW	58	25	48
Mixed	48	24	64
No SAW	49	20	73
Commodity			
Poultry & Dairy	47	25	64
Livestock	36	21	71
Ornamental/Nurs.	74	49	56
Grapes	62	18	34
Nuts	54	25	51
Citrus	67	38	55
Other Fruit	61	23	47
Vegetables	64	25	61
Grains	39	20	65
Edible Field Crops	50	26	63
Other	56	22	69
Region			
Southern CA	66	38	56
San Joaquin Valley	56	23	51
Sacramento Valley	38	15	67
Central Coast	65	25	54
Other CA	29	17	57
Size (employees at peak)			
1 - 5	31	14	71
6 - 15	52	24	53
16 - 50	61	24	45
51+	74	35	54
Hired Illegals			
1986 yes	64	31	47
no	31	11	73
1987 yes	63	23	37
no	50	29	76
Border Patrol Visit			
Yes	66	33	53
No	53	22	55
Knows Maximum Fine			
Yes	75	35	53
No	58	26	54
Exam Score			
Above 50%	73	30	54
50% or Below	39	19	55
Attend Association Meetings			
Yes	57	32	61
No	56	20	50