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Impact of the Immigration Reform and Control Act of 1986 on California Agriculture

Joint Committee on Refugee Resettlement, International Migration, and Cooperative Development

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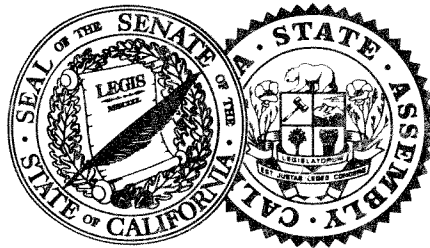
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IMPACT OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 ON CALIFORNIA AGRICULTURE

A Report for the Joint Committee on
Refugee Resettlement, International Migration,
and Cooperative Development



July 1988

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A Report for the Joint Committee on
Refugee Resettlement, International Migration,
and Cooperative Development

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PREFACE

On November 6, 1986, Congress passed the Immigration Reform and Control Act (PL 99-603/IRCA). The law (hereinafter referred to as the Act, the law, or IRCA) provides the agricultural industry with three special agricultural worker programs, and applies sanctions to employers who knowingly hire undocumented individuals. The law also provides for legalization of undocumented persons present in the United States who have lived in the country for specified periods. Since its passage, the landmark legislation has been highly scrutinized and has created tremendous controversy within the advocate, legal, and academic communities.

The goal of this report is to analyze the provisions of IRCA that pertain to California's agricultural industry. Information within this report incorporates:

- The testimony presented in two hearings of the Joint Committee on Refugee Resettlement, International Migration, and Cooperative Development in July, 1987;
- Interviews with labor and grower advocate groups;
- Interviews with researchers specializing in agricultural issues from the University of California:

Davis Dr. Philip Martin and Suzanne Vaupel
Irvine Dr. Leo Chavez
Santa Barbara .. Dr. Juan Palerm and Victor Garcia
San Diego Dr. Wayne Cornelius, Dr. Kitty Calavitta
and Anna Garcia; and

- Data collected from the Employment Development Department (EDD), the Immigration and Naturalization Service (INS), the California Labor Commissioner's Office, the Federal Labor Department Regional Office, and the California Senate Industrial Relations Committee.

The document was written by Rudy Fuentes and edited by Luisa Menchaca of the Senate Office of Research.

CHAPTER I.

BACKGROUND

OF

THE IMMIGRATION REFORM AND CONTROL ACT 1986 (IRCA)

CHAPTER I.

BACKGROUND OF THE IMMIGRATION REFORM AND CONTROL ACT 1986 (IRCA)

History of Agricultural Worker Programs in the United States

Historically, growers and grower advocate groups have contended that Americans will not work in agriculture for a variety of reasons: low wages, poor working conditions, lack of social status, and lack of benefits. Consequently, as early as 1917, Congress enacted "guestworker programs" to permit farm laborers, primarily from Mexico, to be brought over to the United States temporarily to do migrant work. 1/ The enactment of the special agricultural worker programs contained in IRCA represents the establishment of the third "guestworker program" in the United States. As with IRCA, the previous programs contained rules and regulations that protected the guestworkers, but there is little evidence that they were enforced. 2/

These programs were established to allow employers to make use of the available Mexican labor force, while theoretically controlling the entrance and exit of illegal entrants. However, the evidence does not substantiate the conclusion that the flow of undocumented workers has been deterred by these programs. According to the Bureau of Immigration's Annual Report of 1921, during the five-year existence of the first guestworker program, which began in 1917, a total of 72,862 temporary workers were admitted, and 21,400 deserted their employment and disappeared. 3/ The 1917 program was also accompanied by an unprecedented level of immigration from Mexico, increasing from 221,915 in 1910 to 484,418 in 1920, and to 890,746 in 1926. 4/

A second "Bracero Program," as they were called, was initiated in 1942 due to alleged labor shortages caused by World War II. This program was officially terminated in 1947, but growers continued its informal use without regulation until 1951 when it was formally reenacted by Congress. Final termination of this second guestworker program occurred in December 31, 1964. With the 1942-1964 program, 4.5 million immigrants came to the United States as "Braceros," while 5.0 million were apprehended as illegal entrants. 5/

Preliminary data indicate that implementation of IRCA's agricultural worker programs may similarly result in an increase of illegal immigration due to the attractiveness of and historical reliance on the Mexican "cheap farm labor" provided by the 1917 and 1942 programs. During the summer of 1987, there was a resurgence of arrests of undocumented persons at the Mexican border, showing an increase in illegal migration during the first few months of implementation of the Act. June arrests totalled 93,790, up from 69,615 in May, 1987. During the first eleven days of July the arrests totalled 45,128. 6/

Legislative Background: IRCA's Agricultural Provisions

IRCA is directed at controlling the flow of undocumented immigration through:

- the enactment of employer sanctions;
- increased enforcement through a system of verification;
- selected legalization; and
- establishment of three temporary agriculture worker programs.

Growers supported the final legislation which established the three special agricultural worker programs. 7/ These programs and other important provisions are described below.

Special Agriculture Workers Program (SAW) - (IRCA, Title III, Part A, Section 302) This program is aimed at legalizing the illegal workforce in the agricultural industry, provided that applicants meet stipulated criteria. The application period for SAW applicants is June 1, 1987, to November 30, 1988. During this 18-month application period, the program provides seasonal agricultural workers with temporary resident status. Applicants may adjust their legal status from temporary to permanent status within one or two years. Adjustment of status is mandatory if all statutory eligibility requirements are met; there is no discretion. Each SAW applicant is classified as Group 1 or Group 2:

- **Group 1:** Applicants in this classification must prove that they have worked at least 90 days in agriculture for each of the previous three calendar years (May 1, 1983 to May 1, 1984; May 1, 1984 to May 1, 1985; May 1, 1985 to May 1, 1986). Group 1 applicants are allowed adjustment to permanent resident status within a one-year period. This group is limited to a 350,000 maximum, once the numerical cap is reached, additional applicants shift to Group 2 status.
- **Group 2:** Applicants in this classification need only prove 90 days work in agriculture for the previous year (May 1, 1985 to May 1, 1986). They are granted adjustment to permanent resident status within a two-year period. There is no numerical cap regulating Group 2 applicants, and the Immigration Naturalization Service (INS) cannot deny adjustment to a qualified applicant.

H-2A Guest Worker Program - (IRCA, Title III, Part A, Section 301) The H-2A program supplements the labor workforce with foreign workers. It modifies the existing H-2A program by expediting procedures for temporary certification of workers. In order for it to be utilized, an employer must be granted approval by the U.S. Department of Labor which requires that (1) a labor shortage be substantiated and (2) the wages and working condi-

tions offered to workers will not adversely affect the employment of American workers.

Tools, adequate housing, and transportation must be provided to the H-2A guestworkers by their employers. Employers must also agree to pay the workers the highest of the following: the state or federal minimum wage, piece rate earned, prevailing wage, or the adverse effect wage rate (in California - \$5.17 per hour in 1987). 8/

Replenishment Agriculture Worker Program (RAW)- (IRCA, Title III, Part A, Section 303) This program permits recruitment of foreign workers between 1990 and 1993. The RAW program will be utilized only if the Secretaries of Labor and Agriculture find that the existing SAW and H-2A programs are unable to produce a sufficient supply of agricultural workers and that a labor shortage exists.

If the RAW program triggers on, applicants will be given temporary residency status. In addition, they must continue to work within agriculture for at least 90 working days during the following three years in order to receive lawful permanent resident alien status and avoid deportation. If they do farm work for five years, RAW workers can become naturalized U.S. citizens. 9/

IRCA Enforcement: Employer Sanctions and Penalties

In order to enforce the law, the Act imposes civil and criminal penalties on employers who, "knowingly, hire, recruit, or refer aliens who are not authorized to work in the United States or who do not comply with the employment verification system." (Immigration Reform and Control Act 1986, Section 274A [a,b].)

Within the law a "grandfather clause" provides employers an exemption from the verification process for already hired unauthorized aliens. 10/ Generally, the civil penalties for hiring, referring, or continuing to employ an unauthorized alien are:

- (A) first offense - \$250 to 2,000 per unauthorized alien;
- (B) second offense - \$2,000 to \$5,000 per unauthorized alien;
- (C) third offense - \$3,000 to \$10,000 per unauthorized alien.

If the employer, recruiter, or referrer engages in a "pattern or practice" of employment violations, he or she is subject to criminal penalties of up to \$3,000 for each unauthorized alien and up to six months imprisonment. An injunction against such pattern or practice is also possible. 11/

All employers are mandated by law to verify worker eligibility by requiring that all employees (including U.S. citizens) fill an

I-9 form which asks for proof of employment eligibility. An employer, recruiter, or referrer who fails to ask job applicants for identification documents is subject to a civil penalty of \$100 to \$1,000 for each applicant. 12/

Congress provided for an 18-month phase-in period. No criminal proceedings were allowed during the initial six-month "public information" period that began December 1, 1986. During the subsequent 12-month period, June 1, 1987, through May 31, 1988, only consultations or warnings were to be issued for the first citation. For agriculture, the warning period ends December 1, 1988. Penalties are to be applied for subsequent offenses. 13/

The legislation provides an affirmative defense for employers, recruiters, or referrers who show "good faith" compliance with the verification and recordkeeping requirements. This means that the burden of proving violations falls with the government. 14/ The specific clause states:

An employer, recruiter, or referrer who establishes that he or she has acted in good faith to comply with the verification requirements of the regulations will have established an affirmative yet rebuttable defense that he or she has in fact complied with the law with respect to such hiring, recruiting, or referral. 15/

H-2A Program Not Likely in California

A variety of factors suggest that California growers will not use the extended H-2A program to supplement the farm labor workforce. In practice, it is difficult to implement the program. Growers are required to apply for the program 60 calendar days before they estimate that laborers are needed. If the crop is late, the grower must pay the workers, and provide them housing and transportation although the crop is not ready for harvesting.

In addition, due to the seasonal nature of California's agricultural industry, any investment in housing is not economically feasible. Lee Simpson, raisin grower from the Fresno-Kerman area, testified before California legislators in 1987 that the H-2A program would not be used by growers due to the large capital investments needed to provide housing which cannot be afforded or planned for overnight. Mr. Simpson estimated that California growers need 80,000 H-2A workers, which translates to a need for housing 64,000 of these workers, assuming 20% existing housing. The cost for this housing was estimated at about \$115,000,000. 16/ If financial resources are to be allocated, it is more likely that monies would be spent in increasing wages to attract in-state workers to farm labor, instead of spending on new housing and transportation for foreign workers.

The lack of economic incentives to growers for using the H-2A program is not the only problem. There is a proximate and rela-

tively inexpensive undocumented labor force available in Mexico. Employers can continue to use farm labor contractors to recruit these workers and to avoid the housing and transportation requirements of the H-2A program.

Information obtained from administrators support the conclusion that the H-2A program will not be used in California. As of July, 1987, the only Western state to use the H-2A program had been Arizona. 17/ According to the INS, even with a one-week expedited process offered during the month of June, 1987, in response to the labor shortage, no applications for the H-2A programs were filed in Western states. 18/ Harold Ezell, Western Regional Commissioner of the INS, stated at a meeting with farmers in Irvine, California, on Thursday, June 18, 1987, that growers have been "hooked" on the opiate of illegal workers for so many years that they don't want to take the cure. 19/ According to the Commissioner, growers have resisted the H-2A guestworker program because it requires farmers to provide foreign workers with adequate living quarters and wages comparable to domestic workers.

The Director of the California Employment Development Department (EDD), Kaye R. Kiddoo, expects the same results. He testified before legislators in July, 1987, that EDD does not anticipate the implementation of an H-2A program in California. 20/ Based on current trends, the likelihood of the SAW program and, potentially, the RAW program being used by California growers is much greater than the use of the H-2A program.

Who Will Be Affected By the Agricultural Worker Programs?

The farmworkers expected to be legalized through the SAW program work almost exclusively in fruit and nut, vegetable, and horticulture (FVH) specialty commodities. FVH growers employ 651,000 workers - 80% of all the agricultural jobs in California. These jobs are mostly seasonal; only 18% of the FVH jobs were filled by the same worker 150 days or more. 21/ As of July 5, 1988, 448,978 SAW applications had been received and reviewed by INS district offices in California. 22/

At this time, little is known about the characteristics of this large workforce. However, a 1983 survey of the University of California, Davis and EDD provides general information about farmworker characteristics and earnings. 23/ A total of 1,286 farmworker households in California were surveyed, and samples of 30 worker households were drawn from areas surrounding each of EDD's 43 farmworker offices. The survey yielded several major findings.

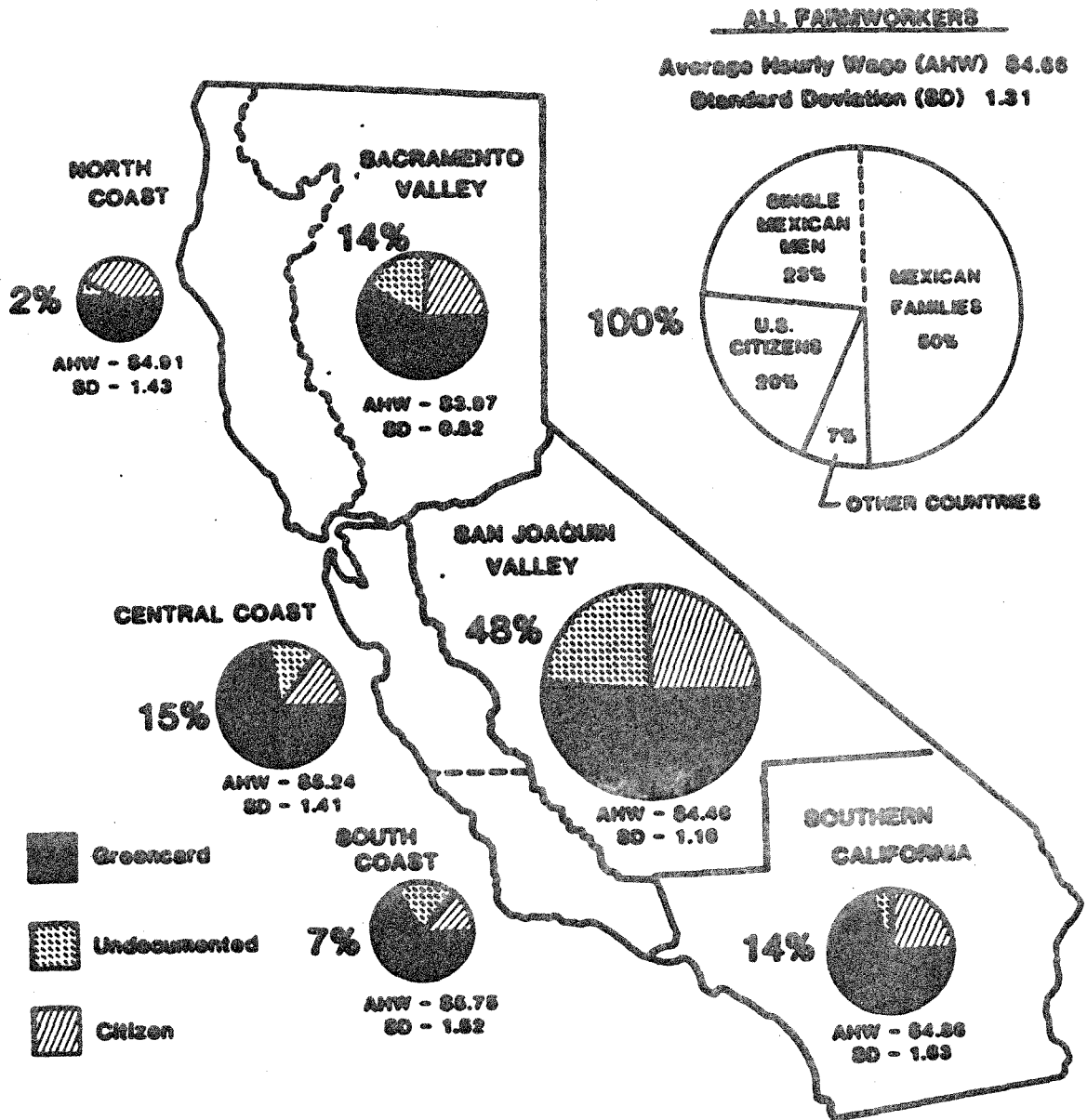
- Over 80% of California's farmworkers were immigrants -- persons who are born abroad and entered the United States between the ages of 18 and 30.

- The average hourly wages and piece-rate earnings for farm workers were \$5.12 or \$182 weekly. However, the average farmworker was only employed an average of 23 weeks a year so annual incomes averaged a low of \$4,200.
- After a decade of harvesting, most farmworkers shift to physically less demanding farm jobs, find nonfarm jobs, or return to Mexico.
- About 75% of the sample were born in Mexico, and only 22% claimed to be United States citizens.
- Almost 40% of the workers were migrants who either followed the crops within California or left their normal residence in Mexico to do farm work in California. Sixty percent (60%) of the farmworkers did not migrate.
- Almost half of the workers lived in the San Joaquin Valley.

See Graph 1 for distribution and origin of California farmworkers.

GRAPH 1

CALIFORNIA FARMWORKERS Percentage Distribution



Source: Philip L. Martin, "California Farm Labor Market," University of California, Agricultural Issues Center, Issues Paper No. 87-1, July 1987.

CHAPTER II.

IMPORTANCE OF AGRICULTURE

IN

THE U.S. AND CALIFORNIA ECONOMIES

CHAPTER II.

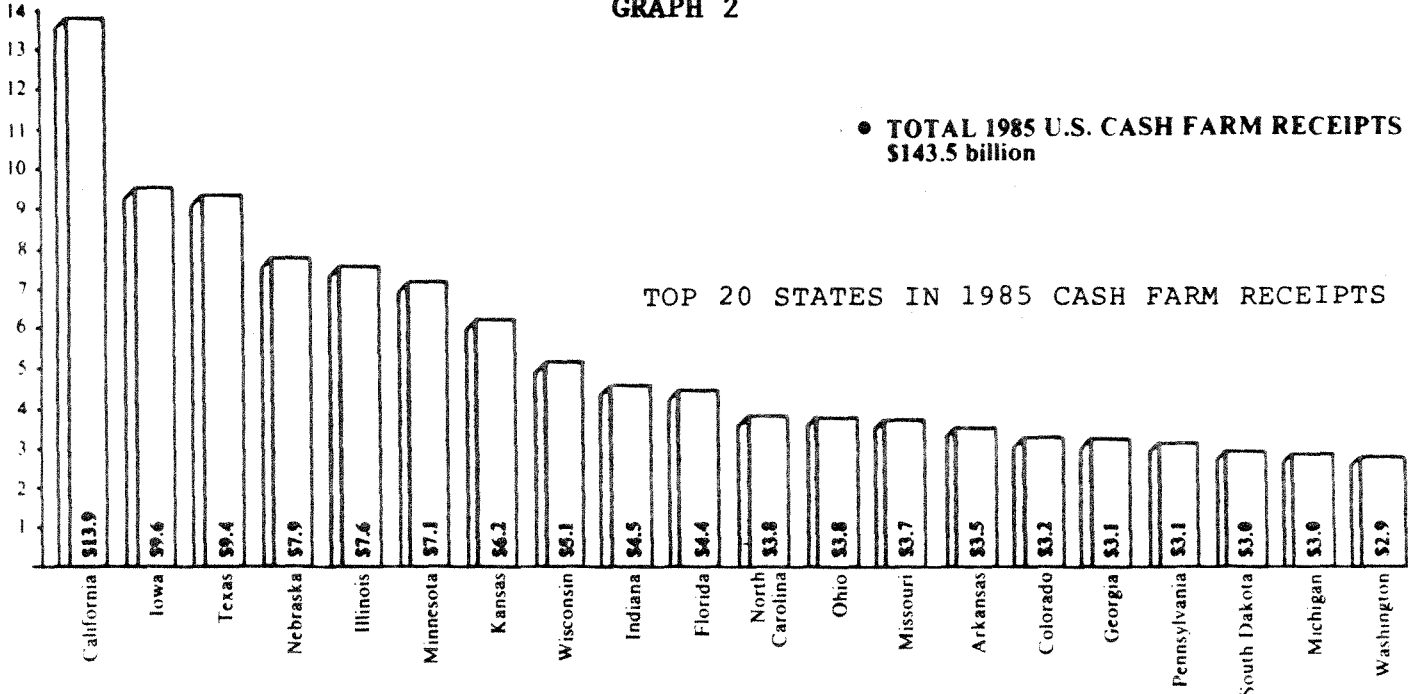
IMPORTANCE OF AGRICULTURE IN THE U.S. AND CALIFORNIA ECONOMIES

IRCA does not affect all segments of California's agricultural industry, but where there is an economic impact, it can be significant. The following statistics illustrate this.

- California has been the largest agricultural producer in the nation. For example, Graph 2 shows that in 1985 California led all states with a total of \$13.9 billion dollars in Cash Farm Receipts.
- In 1986, United States farms had an estimated value of \$596 per acre. The California farms estimated value almost tripled the national average at \$1,517 per acre, as shown in Graph 3.
- If California were a separate nation, it would rank among the world's fifteen largest agricultural producers. In addition, eight of the ten leading agricultural producing counties in the United States are located in California. 24/
- As Graph 4 shows, about 33 million acres of the 100 million acres in California is agricultural land.

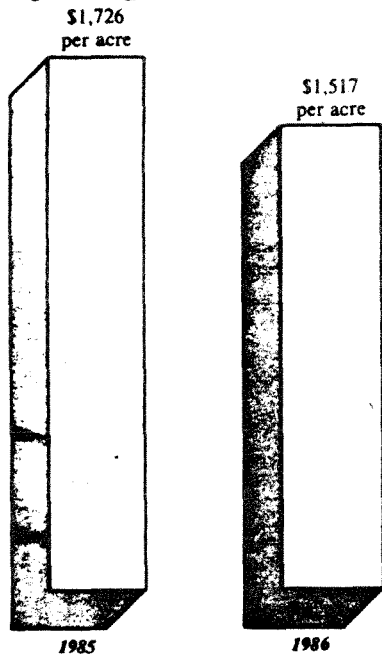
In Billions
of Dollars

GRAPH 2

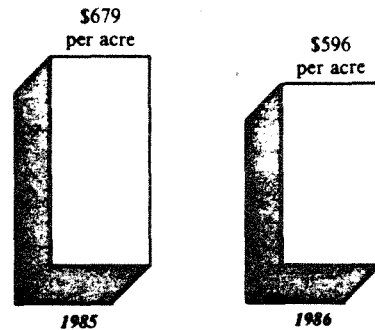


Reprinted from California Agriculture: Statistical Review 1985, California Department of Food and Agriculture, September 1986, p. 19.

**California Farm
Estimated Value
(including building)**



**U.S. Farm
Estimated Value
(including building)**

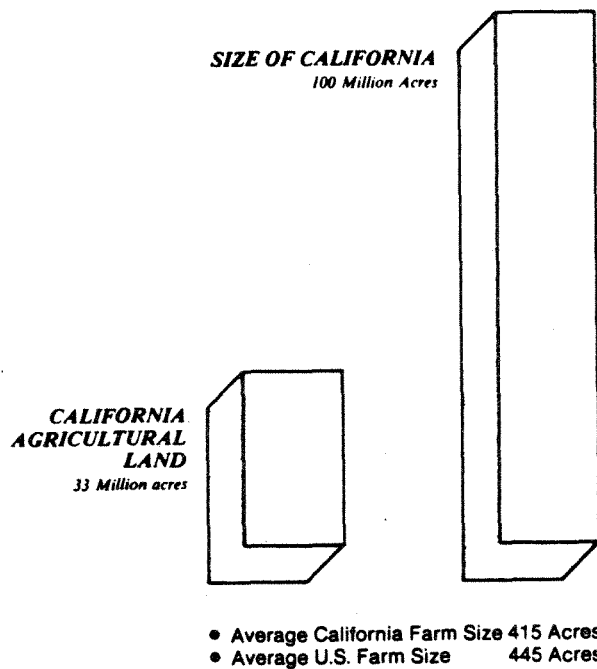


GRAPH 3

Reprinted from California Agriculture: Statistical Review 1985, California Department of Food and Agriculture, September 1986, p. 11.

GRAPH 4

California Land



Reprinted from California Agriculture: Statistical Review 1985, California Department of Food and Agriculture, September 1986, p. 11.

The agricultural segment affected by IRCA's agricultural worker provisions is the perishable crop industry. However, only the labor intensive crops within this industry are directly affected. The Secretary of Labor defined perishable commodities as:

Christmas trees, cut flowers, herbs, hops, horticulture specialties (shrubs) seedlings, fruit and nut trees, vines, potted plants, flower bulbs, and other nursery crops (whether grown in fields, greenhouses, or containers), Spanish reeds, spices, sugar beets, and tobacco, but excluded livestock, poultry, dairy products, cotton, earthworms, fish, oysters, rabbits, hay, honey, horses, soybeans, wool, and sugarcane. 25/

The labor intensive crops affected by the agricultural worker programs are classified as fruits and nuts, vegetables, and horticulture specialties (FVH). As mentioned earlier, FVH growers in California employ 651,000 workers. These crops require 100 or more hours of hand labor to cultivate, irrigate, and harvest one acre. Those crops that do not fall under FVH are mostly mechanized and need small amounts, if any, of farmworker labor.

The current role of FVH crops in California agriculture is illustrated below.

- In 1983, the major FVH commodities grown in the United States were worth more than 18.8 billion dollars, and California accounted for 36.6% of the nation's FVH production. California vegetables were worth \$2.8 billion, fruits and nuts were worth \$2.8 billion, nursery greenhouse products were worth \$962 million dollars, and mushrooms were worth \$100 million. 26/
- FVH products make up three-fourths of California's crop sales. In 1985, California still led the nation, by a wide margin, in the production of FVH commodities. California now accounts for 50 percent of the nation's cash receipts for fruits and nuts, while for vegetables its share is about 47 per cent. 27/.

The role of FVH crops is expected to increase. Based on the increased acreage dedicated to FVH crops and economic profit realized from these crops, Dr. Juan Palerm, Associate Professor at the University of California, Santa Barbara, contends that labor intensive crops will be in growing demand in future years. 28/ If Dr. Palerm's theory is true (covered in chapter seven), the role of FVH products in the economy will become more significant.

CHAPTER III.

POLICY RESPONSE TO LABOR SUPPLY ISSUE

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Among the most controversial issues since the passage of IRCA have been (1) whether certain administrative revisions of the immigration reform law were substantiated by data which showed labor shortages and (2) whether the recruitment of border applicants permitted by these revisions was justified. As of July 12, 1987, the \$10 million dollars allotted for worker recruitment had not been tapped by the INS to recruit American farmworkers. 29/ Also, as with past "guestworker" programs, the alleged labor shortages which prompted these revisions were not generally believed to be supported by meaningful data.

During the month of June, 1987, new regulations were announced by the INS in response to concerns raised by Senator Pete Wilson (R-Calif.) and Western growers that millions of dollars worth in crops would be lost if the growers could not get a sufficient number of workers to California in time for the harvest season. The new rules allowed Mexican workers seeking special agricultural worker status to cross the border and pick perishable crops in the United States without having to prove, for 90 days, their claim of eligibility. 30/ Labor shortages of 25-30% were being reported by the California Farm Bureau and the California Department of Food and Agriculture reported an unexpectedly low turnout of migrant workers in the Coachella Valley, San Joaquin Valley, and Northern California. 31/

The INS revisions spawned controversy in California as legislators expressed their opposition to such measures. For example, California's Senator David Roberti and Senator Bill Greene claimed in a press conference that the INS and grower advocates fabricated the labor shortage as part of an effort to secure low cost foreign labor. It was also asserted that the incoming workers would create a surplus of labor in California, driving farmworker wages down to new lows and eliminating improved working conditions won in recent years. 32/ A 1987 Urban Institute study done by J. Edward Taylor and Thomas J. Espenshade, Foreign and Undocumented Workers in California Agriculture, supported these arguments. The study indicates that a large-scale replenishment worker program would tend to benefit all growers by exerting downward pressure on agricultural wages. 33/

Dolores Huerta, vice-president of the United Farmworker's Union, also contended that national unemployment figures among farmworkers showed that there was an existing available workforce in California and the United States. According to Ms. Huerta, the national farmworker unemployment averages are twice the national average and, in some areas, where a large number of farmworkers are concentrated, the unemployment rate is four times that of the

national average. For example, the 1987 unemployment rates in the Imperial Valley of California and in the Rio Grande Valley of Texas were 23% and 40%, respectively. 34/

The labor shortage controversy will not be resolved in 1988 since data available through the California State Employment Development Department (EDD) are very limited. For example, EDD reports do not reflect the migratory nature of California's farm labor market and other characteristics of the workforce. Farmworkers arrive annually from Mexico, Texas, Oregon, Washington, Arizona, and Florida. This annual occurrence is not clearly reflected and considered in the EDD reports.

However, available data show, that in 1987 and in 1988, labor shortages in California were not as great as expected. EDD reports from January to August of 1987 only showed spot shortages. According to EDD California Farm Labor Reports 881-A, no labor shortages existed for the months of January through May, 1987. For the months of January and February, the reports cited a surplus of laborers. The March and April reports reported adequate to a surplus of laborers. In May 1987, a surplus of labor was reported in several counties, some observers reported that there were fewer workers than in the previous years. The June report cited no surplus in most counties and some temporary labor shortage (only report with definite cites of a labor shortage). The July 9, 1987, supplemental report indicated a diminishing farm labor shortage and stated that agribusiness representatives estimated that current needs would be met with an additional 600 workers statewide. In August 20, 1987, no farm labor shortages were reported, and during the peak harvest season, only 4,000 additional workers were reported to be needed throughout the State. In June 17, 1988, no labor shortages were reported. 35/

Other information indicates that no significant crop losses resulted from labor shortages. In 1987, a report of a survey done by Dr. Philip Martin, an agricultural economist and farm labor specialist at the University of California, Davis, found that of 139 farms participating in the survey, only six reported summer crop losses. Most of the respondents were large employers with an average of 207 seasonal workers and 1986 payrolls averaging \$827,000. 36/

The concerns over potential labor shortages and lack of an institutional process to adequately measure the need for farm labor during peak harvest seasons raise certain policy questions:

- **Shouldn't recruitment efforts be focused on recruiting the existing unemployed farmworker labor force in the United States?**

- Shouldn't future INS administrative revisions be based on an analysis of the unavailability of the domestic workforce?
- Shouldn't the State of California analyze the costs and benefits of recruiting and employing California's existing farm labor workforce?
- To what extent should the State determine the demographic characteristics of the diverse agricultural workforce in California?
- Should the State support independent research efforts regarding California's labor needs in order to further stimulate objective policy decisions?

CHAPTER IV.

FACTORS CONSIDERED IN DETERMINING LABOR SHORTAGE

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The federal response to claims that a farm labor shortage existed in the summer of 1987 suggests that there is a need for further analysis of the issue. Many binational and labor variables that affect California's agricultural labor supply were not examined. First, it appears that Congress failed to consider that a good or late harvest in Mexico could delay the immigration of many workers. As noted earlier, the INS reported a resurgence of arrests of aliens at the Mexican border in June, 1987.

Second, based on the available information, the labor shortage appeared to have been exaggerated and premature. For example, in a Sacramento Bee article of June 19, 1987, "Labor Shortages Grips Growers," the Fresno Farm Bureau marked their labor need for Fresno county at 125,000 to 150,000 workers by mid-August, 1987. This was over twice the estimated need reported to EDD for the previous two years during the peak harvest season, 60,470 workers for August, 1985, and 64,170 for August, 1986. 37/

Third, a drastic increase of California's agricultural production in the early part of the summer of 1987 increased the demand for workers. EDD claimed that a dry winter and hot spring hastened the ripening of bumper crops causing crops that usually are sequential to ripen concurrently. 38/ In EDD's July 23, 1987, 881 Supplement California Farm Labor Report, agribusiness representatives estimated that 172,000 seasonal farmworkers were employed statewide; this is about the same number that were employed in 1986 during the peak harvest month of September.

Finally, depressed wages may have made recruitment of domestic workers more difficult. For example, in Santa Clara, EDD found that workers traditionally expected to work the garlic and apricot harvest had exited agriculture into different labor markets. However, in the survey mentioned earlier, Dr. Martin found that the reported farm labor shortage of 1987 had no dramatic effect on farm wages at a statewide level. Hourly wages increased an average of 4%, to \$4.79 an hour this year, compared to a 2% increase last year. 39/

None of these individual reasons alone can explain the "spot shortages" that California experienced during the month of June, 1987, but as a group of factors they serve as viable explanations for the temporary farm labor shortages. In the short run, the initial labor needs of agriculture were met by the administrative

revisions of the law. A presentation of all variable factors presents two important policy considerations:

- Should Congress more comprehensively approach the problem of labor shortages by analyzing the states' "ongoing" farm labor needs?
- Shouldn't binational and out-of-state factors such as competitiveness in international markets and crop cost production (in California, the U.S. and foreign countries) be considered when the labor shortage issue is examined?

CHAPTER V.

POLICIES AFFECTING CALIFORNIA'S FARMWORKERS

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According to the United States Bureau of the Census, California was the permanent home to one million undocumented aliens or about half of the total undocumented workforce in the United States in 1980. 40/ Recent INS statistics support the conclusion that California is the home state for the majority of incoming immigrants. As shown in Table 1, in July 5, 1988, the INS district offices in California reported that 1,043,728 legalization applications (I-687) had been received and reviewed in California. These are applications processed for applicants who can prove, among other things, physical presence in the United States prior to January 1, 1982. The applications are eventually submitted to an INS national office.

As of July 1, 1988, 1,733,370 legalization applications had been received at the national office. Although these national statistics are not adjusted for backlogged applications, thus far, California is the recipient of approximately 60% of the total legalization applications. Also, a total of 448,978 SAW applications (I-700) had been received and reviewed in California. This represents approximately 69% of the total SAW applications received nationwide, 652,469 applications. 41/

Table 1

INS Statistics for Legalization and SAW Applicants

	Legalization (I-687)		SAW (I-700)	
	<u>Received</u>	<u>Received/ Reviewed</u>	<u>Received</u>	<u>Received/ Reviewed</u>
District				
Los Angeles		851,510		196,029
San Francisco		145,381		183,307
San Diego		46,837		69,642
California*		1,043,728		448,978
National**	1,733,370		652,469	

* As of 7/5/88

** As of 7/1/88

Source: INS

According to Harold Ezell, the Western Regional Commissioner of the INS mentioned earlier, about 95% of the applications are expected to be approved. ^{42/} As of July 5, 1988, of the 1,043,728 legalization applications received in California, the district offices recommended denial for 77,605 legalization applicants. This represents a 7% recommended denial rate. For SAW applicants, the recommended rate of denial in California of the total SAW applications was 14% or 64,517, as of July 1, 1988.

Once applications are reviewed by the national office, the actual denial rates at the national level were 2%, 15,077 of 961,807 legalization applications reviewed, and 14% for SAW applications, 26,955 of a total of 186,553 applications reviewed. As of July 1, 1988, the INS national office had not yet reviewed 771,563 legalization applications and 465,916 SAW applications. ^{43/} Consequently, the denial rates will probably increase as the remaining applications are processed.

As California accommodates the newly legalized residents, a number of issues have surfaced needing policy resolutions.

Family Unity

In the INS legalization forms, applicants must identify all family members with whom they reside as part of the application process. The form directs them to include information which they have traditionally kept from the government. Since it is common for family members to be in both eligible and ineligible categories, Congress included a "family unity" section within the law to ameliorate fears that family members would be deported as a result of one member's decision to apply for legalization.

Congress empowered the INS to make a determination on when it would be appropriate to permit ineligible family members to remain in the United States. INS, in turn, empowered its 38 district directors to use their individual discretion in making this decision. A uniform definition outlining when family unity considerations should be applied was not provided, however. This caused controversy within community organizations that assisted applicants in the legalization process. They felt that without a general definition, they could not properly advise their applicants about the fate of ineligible family members.

In August, 1987, the INS clarified its position regarding the information contained in legalization applications. The position of the INS was that the information contained in the legalization application could not be used for any purpose other than to determine the applicant's eligibility for legalization, absent fraud or willful misrepresentation. According to Assistant INS Commissioner, William Slattery, this meant that the information in the application regarding ineligible family members could not be used to commence an investigation into the family's possible deportability. It also meant, however, that if the applicant committed fraud or willful misrepresentation in his or her appli-

cation, ineligible family members would not be protected from potential deportation. 44/

Because the issue of family breakup is a sensitive and important factor to the applicants, congressional and state initiatives surfaced in response to the special application of family unity. In May of 1987, Senator Cranston and Congressman Roybal introduced a Congressional Joint Resolution (SJR 131) expressing to Congress the need for the establishment of a uniform national policy to preserve family unity in the implementation of the legalization program under the Immigration Reform and Control Act of 1986. In California, California Assembly Joint Resolution 47 sponsored by Assemblymember Roybal-Allard and Senator Torres supported the federal resolution. The California resolution was chaptered. The federal resolution was referred in June, 1988, to the Subcommittee on Immigration and Refugee Affairs.

The family unity issue may resolve itself. Once applicants achieve permanent residence, they will be able to sponsor ineligible family members for legalization. However, according to Polly Webber, representing the American Immigration Lawyers Association, backlogs for such sponsorship are as long as ten years for Mexicans and six years for Filipinos, two of the largest legalization-qualified nationalities. 45/ In October 26, 1987, INS Commissioner Nelson formally announced that INS would exercise its discretion to allow ineligible minor children to remain in the United States in cases where both parents or a single parent qualify for legalization. In addition, other ineligible family members could be indefinitely deferred deportation for specific humanitarian reasons. 46/

Since the issue of family unity is critical to the legalization of undocumented families already in the United States, many of whom are agricultural workers, these questions are raised:

- To what extent will implementation of IRCA result in separation of families?
- What will happen to the youth if their parents are deported? Who will be responsible for these children?
- Would labor shortages increase if these families return to Mexico or are deported?
- Wouldn't uniform criteria on family reunification serve to deter arbitrary decisions and potential discrimination against certain groups of applicants by district directors?
- To what extent has the lack of a uniform policy on family unity deterred applicants from applying for legalization? Does the nation benefit from this?

Claims of Bias in Treatment of Border and U.S.-based Farmworker Applicants

A threshold question related to possible future administrative revisions of IRCA is whether past INS actions have been consistent with the intent of the law. Administrative actions which would appear to increase the flow of undocumented workers seem inconsistent with the law's objective to legalize workers **currently** residing in the United States. Consequently, the INS administrative actions taken in 1987, to recruit foreign workers, raised concerns that the INS may be biased against applicants already residing in the United States.

During the early processing stages of legalization applications, some labor organizations and entities, sponsored by INS to process applications (QDE's or Qualified Designated Entities), contended that applicants for legalization were having difficulty obtaining work verification letters from their employers and other authorization forms to establish their residency and work history within the United States. INS representatives acknowledged that this was true, and explained that work authorizations and temporary status to aliens had to be refused due to lack of the required documentation.

At a hearing in July 24, 1987, before the Joint Committee on Refugee Resettlement, International Migration, and Cooperative Development, witnesses (including a representative of the INS) testified that employers and labor contractors were withholding important information to prove the employment histories of applicants due to uncertainties about penalties for not filing tax returns. In addition, some records were simply not kept by employers, or employees were expected to pay exorbitant fees to acquire the documents. During this same time, employers were firing or refusing to hire applicants unless they could show INS worker verification documents. 47/

In light of the above, a case for bias against in-state workers by the INS has been articulated by advocates of legalization applicants since the administrative revisions which relaxed standards for legalization **only** applied to border applicants. Pursuant to the national policy announced by the INS, border applicants were allowed a 90 day temporary worker authorization permit, without showing employment verification for previous employers. At the same time, undocumented workers already residing in the United States were denied employment authorization if applications were not accompanied with proper documentation; consequently, they were more likely to be denied employment by the growers and temporary residency status by the INS.

The perceived disparate treatment of applicants prompted the AFL/CIO and the United Farm Workers to file a class action suit against the INS on the basis that the administrative revisions created a subjective policy and a double standard against in-state applicants, UFW v. INS, U.S. District Court, Eastern

District of California, July 22, 1987. According to the proponents, the refusal to accept legalization applications in the United States, which are not accompanied by corroborative evidence from employers, while accepting border applicants with no documentation, reduced the likelihood that in-state applicants would be among the first 350,000 applicants adjusted to permanent resident status after one year.

Due to the large number of legalization and SAW applications filed in California, it may be beneficial for the State to monitor and assess whether it should attempt to influence Congress in the implementation of future administrative revisions.

Human Services for an Increasing Farm Labor Workforce: Is California Ready?

The legalization of farmworkers will probably continue for the next seven years, including the time span allowed for implementation of the RAW program (1990-1993). A challenge to California is presented in that the immigration law may not sufficiently provide for health, education, and social services programs needed to fully integrate the newly legalized immigrants. As Attachment I shows, only SAW workers are eligible to apply for a variety of state and federal programs since they are deemed "legal permanent residents." These programs include: Medicaid, state and local medicare, food stamps, school lunch and breakfasts, Women Infant and Children Program (WIC), federal housing programs, Headstart, Job Training Partnership Act Program (JTPA), and a variety of other social programs. Congress also formulated a "Special Rule for Determination of Public Charge" which is general enough to allow SAW applicants some needed use of social services. The rule states:

An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212 (a) (15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance. [IRCA SEC.210 (d)(B)(iii)].

Although the INS can exclude potentially eligible aliens from legalization if they are deemed to be a "public charge," with this definition, persons under the SAW program can make use of some social services without being considered a public charge (food stamps public housing, unemployment insurance, workers compensation, and medicaid and medicare). Also, though the law disqualifies SAW applicants from receiving federal AFDC, state AFDC programs are available for their use.

It cannot be assumed that there will be a dramatic increase in use of human services programs by legalized applicants. However, due to the generally impoverished conditions of farmworkers, it

is likely that these services will be utilized by the newly legalized workforce. The lack of job training and urban occupational connections in rural areas may further prevent SAW and other workers from transitioning to higher-paid jobs. As long as the working conditions for farmworkers remain unimproved, this workforce may eventually have to make extensive use of the social services for subsistence during low work periods, and this presents certain challenges to the State.

- Assuming that there will be an increased need for social services, is California ready to provide health, education, and welfare services to this new legalized workforce? Should the State go beyond what the federal government provides?
- Has the State initiated a comprehensive plan to meet the inevitable increase in need for social services?
- Is it appropriate for the agricultural industry to take responsibility for some of the needed services? If so, should they have a primary role in providing services?
- Should the State establish or expand employment training programs designed to ensure the employability of these workers and to ensure year-round employment?
- Can the farmworker occupation be changed to ensure the ongoing availability of an agricultural workforce? Would these changes be cost effective and practical for the State?

CHAPTER VI.

IRCA'S IMPACT ON FARM LABOR CONTRACTORS

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The use of farm labor contractors in California's agricultural industry has been significantly increasing. It is logistically easier to recruit one registered contractor rather than recruiting 30-40 workers necessary to harvest a crop. In addition, it is easier for the worker to attach himself to a contractor who provides a series of job placements instead of the one-shot seasonal employment offered by most growers.

United States Bureau of the Census statistics show an increase in use of farm labor contractors by growers from 1974 to 1982. As shown in Graph 5, the Bureau reported in 1982, that between 1974 to 1982 the number of farms using farm labor contractors in California increased by 36 per cent, from 13,330 to 18,149. About one-fifth of all California farms used contract labor in 1982 (18,149 of 82,463).

GRAPH 5

Number of Farms Hiring Workers and Wage Bills in the United States, California, Florida, and Texas, 1974 and 1982

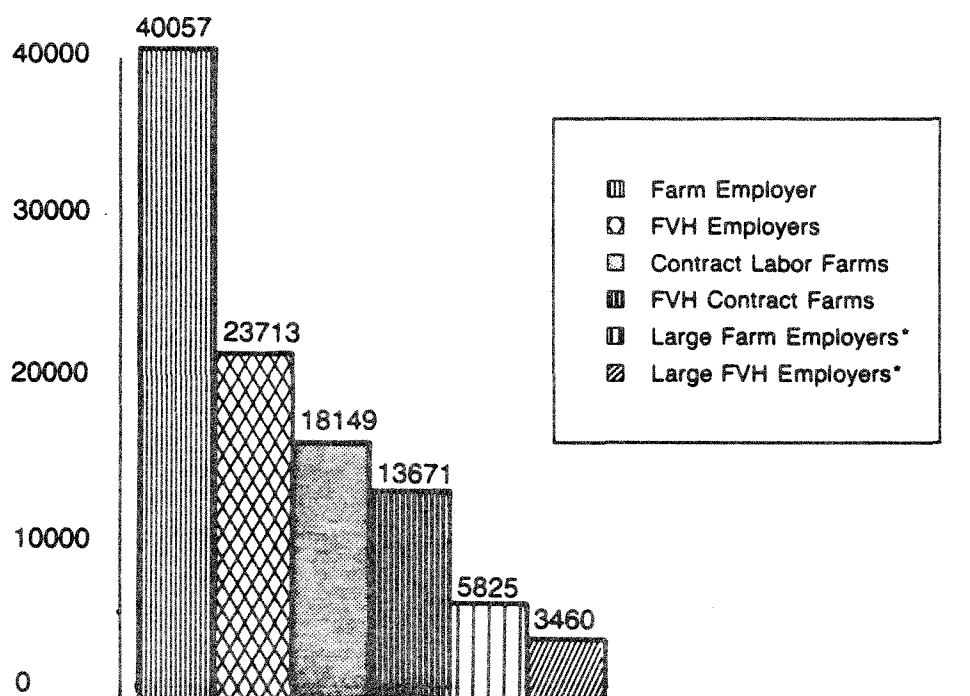
	1974	1982	Percentage Change
UNITED STATES			
Farms	2,314,013	2,240,976	-3.2
Farms hiring directly	831,340	869,837	+ 4.6
Wages (\$million)	4,652	8,441	+ 81.4
Farms hiring FLCs	119,385	139,336	+ 16.7
Wages (\$ million)	512	1,104	+ 115.6
FLC wages as percentage of the total wage bill	9.9	11.6	
CALIFORNIA			
Farms	67,674	82,463	+ 21.9
Farms hiring directly	31,268	40,057	+ 21.9
Wages (\$ million)	1,043	1,819	+ 74.4
Farms hiring FLCs	13,330	18,149	+ 36.2
Wages (million)	186	414	+ 122.6
FLC wages as percentage of the total wage bill	15.1	18.5	

Source: U.S. Bureau of the Census, Census of Agriculture, cited from Philip Martin and Suzanne Vaupel, Activity and Regulation of Farm Labor Contractors, July 1986, p. 21.

The use of farm labor contractors within FVH crops, the labor intensive crops affected by the three agricultural worker programs, was significantly higher than for non-FVH crops. The U.S. Bureau found that almost 75 percent of all farm labor contractors were in FVH commodities. Of the 18,149 contracted labor farms, 13,671 were FVH farms. See Graph 6 for an illustration of this.

GRAPH 6

NUMBER OF CALIFORNIA FARMS AND FARM EMPLOYERS
1982



* Paid \$50,000 or more in wages in 1982.

Source: U.S. Bureau of the Census, Census of Agriculture, 1982, Washington, D.C. 1984, cited from Philip Martin, California Farm Labor Market, UC AIC Issue Paper, No. 8701, July 1987.

The continued increased use of farm labor contractors can be expected since IRCA's rules and regulations regarding labor contractors basically permit growers to shift the responsibility for employee verification to the farm labor contractor. The rules read:

Those who engage the labor services of an independent contractor are not responsible for verification of the employment eligibility of the employees of the independent contractor. 48/

Every grower making use of farm labor contractors must ensure that they are registered with the State Labor Commissioner and Federal Labor Department. However, once this is assured, the growers do not seem to be subjected to the employer sanctions provisions of the Act. This shift of responsibility, along with past trends in increased use of labor contractors, suggests that the use of farm labor contractors will continue to increase.

What Is the Impact of the Increased Use of Farm Labor Contractors on Farmworkers?

Increased use of farm labor contractors (FLC's) increases the potential for mistreatment of the farmworkers hired by FLCs. Research economist, Richard Mines, concluded in a 1983 survey done by EDD and the University of California, Berkeley, that wage and labor conditions are worse for farmworkers when hired by farm labor contractors than when hired by growers. ^{49/} The 1983 EDD survey was composed of 1,300 interviews which included at least 30 interviews from each of the 42 EDD offices across the State. The sample subjects for the study were chosen by a quota system (predetermined to the proportion of farmworkers by number of household, sex, ethnicity and subarea by supervisors in each area of California) to assure a representative sample of the farmworker population in each of the areas. As shown in Graph 7, the survey found that farm labor contractors employed 31.4% of surveyed workers.

GRAPH 7

**Average Weekly Earnings
by Type of Employer
(All Jobs Last Two Years)**

Employer	Average Weekly Earnings	Number of Jobs	Percent of Jobs
Growers	\$210.5	1984	65.0%
Pack House	\$187.31	112	3.7%
FLC	\$166.98	958	31.4%
Total		3132	100.1%

Source: Employment Development Department 1983 Survey, cited from Richard Mines, Type of Employers, Groups of Workers in California Agriculture, May 30, 1984, p. 8.

According to this study, farm labor contractors hired 1/3 of the state's fruit and vegetable workers and 59.1% of the hoeing and thinning of row crop laborers. Graph 8 illustrates this. ^{50/} These contractors were found to pay from \$42 to \$72 less per week than what growers paid for similar farmwork. Graph 9 below shows

the discrepancies. In addition, Graph 10 shows that farm labor contractors were more likely to charge their laborers for working equipment; 43.2% of the surveyed employees hired by farm labor contractors were charged for equipment. The study also found that working conditions were worse where laborers had not been exposed to labor unions. 51/

GRAPH 8

**Percentage of Different Tasks done by
Farm Labor Contractors and Growers**

Employer	Hoe Thin	Harv Tree Vine	Harv Veget	Prune	Sort	Irrigate	Total
Grower	30.9	66.6%	63.1%	74.6%	69.7%	91.3%	68.0%
FLC	59.1%	33.4%	36.9%	25.4%	30.3%	8.7%	32.0%
Number of Jobs	372	655	580	279	231	149	2830

Source: Employment Development Department 1983 Survey, cited in Richard Mines, Type of Employers, Groups of Workers in California Agriculture, May 30, 1984, p. 6.

GRAPH 9

**Average Weekly Earnings by Region
and by Type of Employer
(1982-1983 Season Only)**

Region	FLC		Growers	
	wage	N	wage	N
So Cal	\$163.4	75	\$209.8	190
So Coast	\$220.0	18	\$252.9	56
Cen Coast	\$158.0	46	230.1	162
Sac Valley	\$159.7	44	207.7	107
San Joaquin	\$155.7	401	196.1	575

Source: Employment Development Department 1983 Survey, cited from Richard Mines, Type of Employers, Groups of Workers in California Agriculture, May 30, 1984, p. 8.

GRAPH 10

PERCENTAGE OF PAYMENT OF WORK EQUIPMENT

Employer	Boss Pays	Worker Pays	Tot Percent	Number of Workers
Grower	66.2%	33.8%	100.0%	775
FLC	56.8%	43.2%	100.0%	294
Pack House	49.0%	51.0%	100.0%	49
Sac Valley	\$159.7	44	207.7	107
San Joaquin	\$155.7	401	196.1	575

Source: Employment Development Department 1983 Survey, cited from Richard Mines, Type of Employers, Groups of Workers in California Agriculture, May 30, 1984, p. 9.

Existing Legislative Protection for Farmworkers

Both Congress and the State Legislature have passed legislation to regulate farm labor contractors. Two separate legislative acts were initiated to provide some minimal protection for farmworkers when employed by farm labor contractors. As early as 1963, Congress initiated the Farm Labor Contractor Registration Act. In 1982, this law was amended and retitled the Migrant and Seasonal Agriculture Worker Protection Act of 1982 (U.S. Codes Title 29, Sections 1801 to 1855, 1983). Within the State of California the Labor Code is included in the Farm Labor Contractor Act (California Labor Codes Sections 1682 to 1699).

In general, the federal and state acts require that farm labor contractors provide minimal services, including:

- a written statement outlining employment conditions, wages, housing and other benefits;
- transportation to and from the work place; and
- proper housing meeting state/federal minimum standards.

Further, farm labor contractors are prohibited from breaching work agreements and from requiring an employee to purchase goods from an employer.

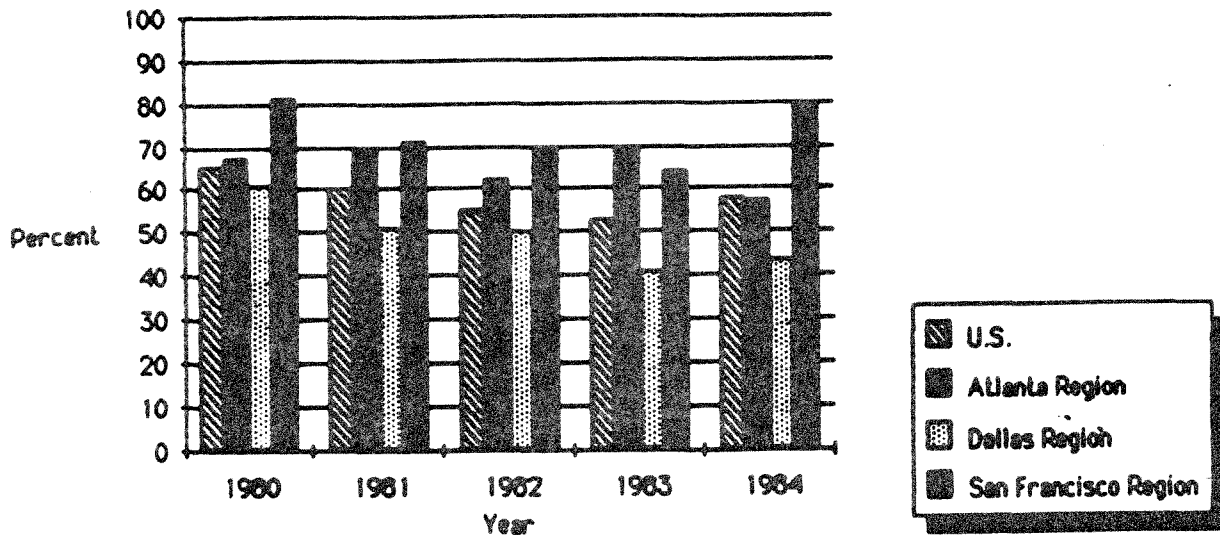
All labor contractors must register annually with the Department of Labor and the California Labor Commissioner. In California, a \$5,000 surety bond is required along with a \$250 annual licensing fee. An examination for the individual contractor testing for a working knowledge of the applicable labor law is also required. The Labor Commissioner can draw from the bond for payment of any damages resulting from violations of the Farm Labor Contractors Act. 52/

Is Enforcement of Existing Codes Effective?

Available data illustrated in Graphs 11 and 12 indicate that federal and state labor departments may not be aggressively enforcing the legislative acts regulating labor contractors. At the federal level, for example, the Department of Labor located only 1,100 undocumented workers employed by FLC's in 1983, a year in which the the Immigration Naturalization Service apprehended 1.2 million illegal aliens. ^{53/} In addition, the highest number of violations of federal laws for 1980, 1981, 1982, and 1984 were found in the San Francisco Region (which includes California), but the lowest number of investigations were done in this region by the regional Federal Labor Department Office for those years.

GRAPH 11

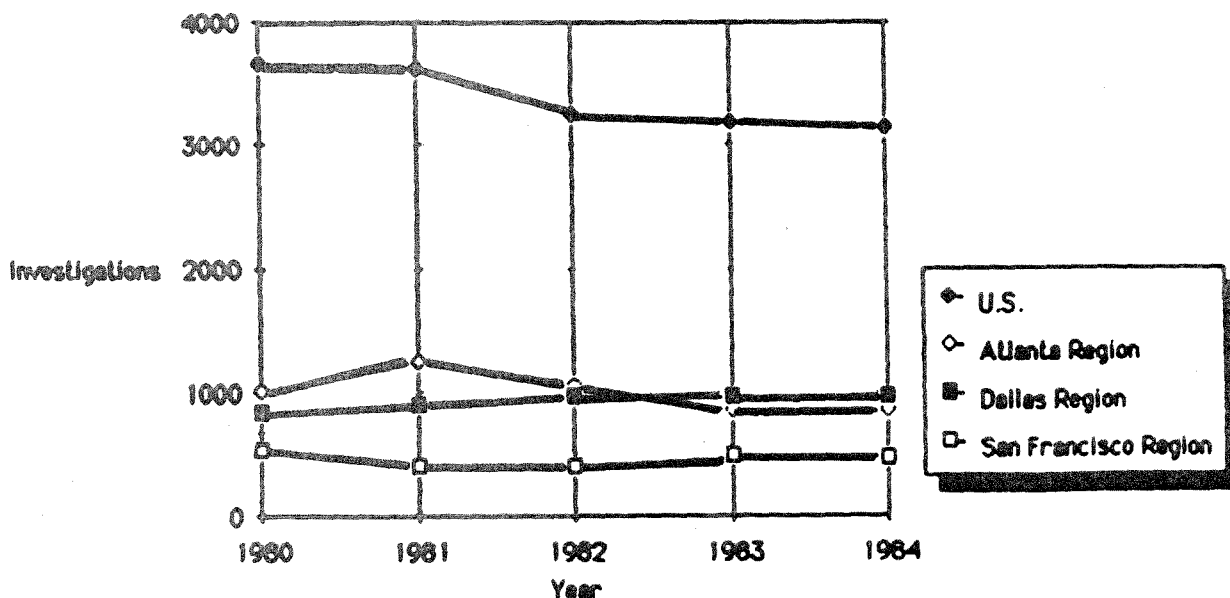
Percent of FLCRA and MSPA Investigations Revealing Violations in U.S. and Major Regions, 1980-1984



Source: U.S. Department of Labor ESA Regional Summary of FLCRA/MSPA Compliance Actions, 1980-1984, cited from Philip Martin and Suzanne Vaupel, Activity and Regulation of Farm Labor Contractors, June 1986, p. 35.

GRAPH 12

FLCRA and MSPA Investigations in U.S. and Major Regions.
1980-1984



Source: U.S. Department of Labor ESA Regional Summary of FLCRA/MSPA Compliance Actions, 1980-1984, cited from Philip Martin and Suzanne Vaupel, Activity and Regulation of Farm Labor Contractors, June 1986, p. 30.

Suzanne Vaupel and Philip Martin, in their 1986 report, Activity and Regulation of Farm Labor Contractors, contend that federal enforcement of the Migrant and Seasonal Agriculture Worker Protection Act is ineffective because of administrative flaws:

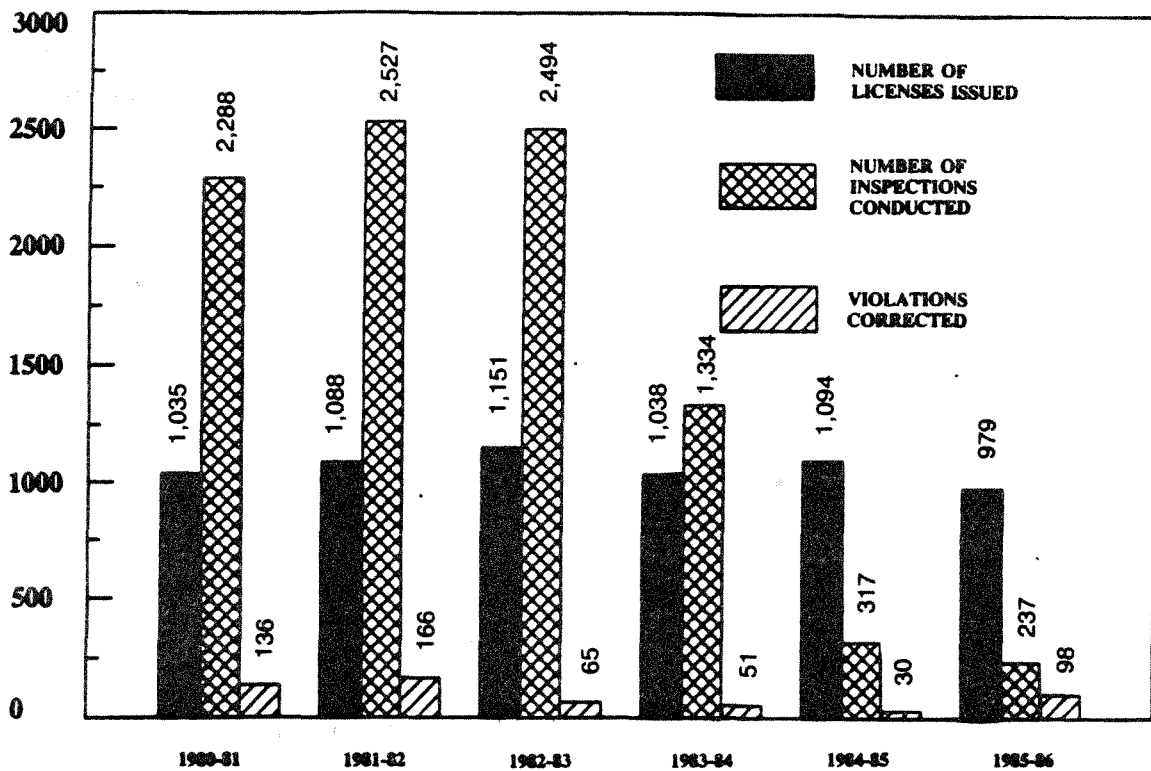
- The Department of Labor (DOL) must rely on INS to identify undocumented workers which hampers its enforcement strategies.
- DOL can only enforce civil penalties against FLC violators; criminal penalties that might change FLC behavior are enforced by the U.S. Attorney General's Office and are low priority items of regional U.S. attorneys.

The lack of federal enforcement of the Migrant and Seasonal Agriculture Worker Protection Act, particularly in the San Francisco Region, underscores the importance of state regulation. However, based on data from the Senate Industrial Relations Committee and the California Rural Legal Assistance, lack of enforcement of the

state's Labor Contractor Act is also a problem. Graph 13 below shows the number of licenses issued, number of inspections conducted, and the total violations corrected from 1980 to 1986. The number of licenses issued dropped from a high of 1,151 in 1982-83 to a low of 979 in 1985-86.

GRAPH 13

**NUMBER OF LICENSES ISSUED, INSPECTIONS CONDUCTED AND VIOLATIONS CORRECTED
Involving Farm Labor Contractors
1980-1981 Through 1985-86**



SENATE COMMITTEE ON INDUSTRIAL RELATIONS

The discrepancy in data either indicates: (1) a miscalculation that there is an increased use of farm labor contractors, (2) lack of enforcement of state laws and lack of incentives for all labor contractors to register with the State, or (3) an increase in the number of unlicensed contractors. The dramatic drop in inspections done by the State Department of Industrial Relations from 1984 to 1986, at minimum, indicates that the use of inspections as a deterrent to unlawful activity has significantly diminished. The total number of inspections dropped from a high of 2,527 in 1981-82 to only 237 in 1985-86. There is equal concern regarding the lower number of violations corrected annually by the Labor Commissioner's office; only 98 violations were corrected in the 1985-86 year.

In addition to enforcement problems, the surety bond available to cover expenses accrued through labor contractor violations has been cited as being insufficient to cover potential damages. The California Rural Legal Assistance cites thirteen pending cases as of May 1, 1987, against farm labor contractors. The amount of unpaid wages claimed totals \$287,800 while the amount of surety bonds for involved farm labor contractors amounts to only \$80,000 (refer to Attachment 2, "CRLA Farm Labor Contractor Cases"). The surety bond is potentially insufficient as a coverage fund. Assemblymember Lloyd Connelly introduced AB 2306 which would increase the surety bond from \$5,000 to \$10,000. This bill has been placed in the inactive file of the California State Senate. The apparent dependence on the farm labor workforce and problems with regulation of the FLCs pose the following questions:

- **Given the historical pattern of limited resources and attention to enforcement of federal and state labor laws affecting farm laborers at the federal and state levels, what working conditions can incoming SAW and RAW workers in California expect in the future?**
- **Should state enforcement efforts be increased since at least one study shows that workers face harsher experiences when employed by farm labor contractors and federal enforcement efforts are not focused in California?**
- **Should the amount of surety bond increase for farm labor contractors to cover damages, or should other alternatives be pursued? What changes to surety bonds and what other alternatives can be considered to ensure that damages to workers are covered?**
- **Can efficiently or properly enforced worker protection acts help decrease occupational exit by SAW applicants? If not, what actions will retain these legalized workers and attract domestic workers to farm labor?**

CHAPTER VII.

**FUTURE ECONOMIC MODELS OF CALIFORNIA AGRICULTURE
GROWTH OR DECLINE**

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FUTURE ECONOMIC MODELS OF CALIFORNIA AGRICULTURE GROWTH OR DECLINE

Since IRCA will play a major role in providing California with the needed farm labor workforce, the actual demand for labor will determine the challenges that the law will place on the State and its social services. If an increase of labor is experienced due to economic growth in the agricultural industry, the State will be challenged to either develop domestic worker recruitment programs or make use of the RAW program. If a decrease of labor demand is experienced, a plan to retrain and redirect the IRCA legalized workforce will be critical. This chapter directs itself to the long-term policy issues which have to be considered when assessing the economic growth of the industry.

The Pacific Rim Factor

The development of trade with the Pacific Rim nations is an important factor to consider when discussing the future of California's agriculture. As Attachment 3 shows, these nations include Japan, Korea, China, Taiwan, the Philippines, Thailand, Canada, Australia, New Zealand, and Central American and South American countries. Governor George Deukmejian has repeatedly expressed his concern over trade activities in the Pacific Rim. For example, in 1985, he stated:

California sits on the edge of the most dynamic region in the world - the Pacific Rim. This is a three trillion dollar market that is growing at a rate of three billion dollars a day. California can lay claim to the leadership in the Pacific Era. 54/

Present trading activities with the Pacific Rim nations is significant. Eight of the ten leading trading partners with California come from within the Pacific Rim (see Attachment 4). Trade activity with Japan alone for 1985 was \$35.3 billion. For that same year, California export activity with Pacific Rim countries was over \$26 billion and imports amounted to over \$54 billion in goods (see Attachment 5).

Agriculture Growth Model: Labor Intensive Products (FVH)

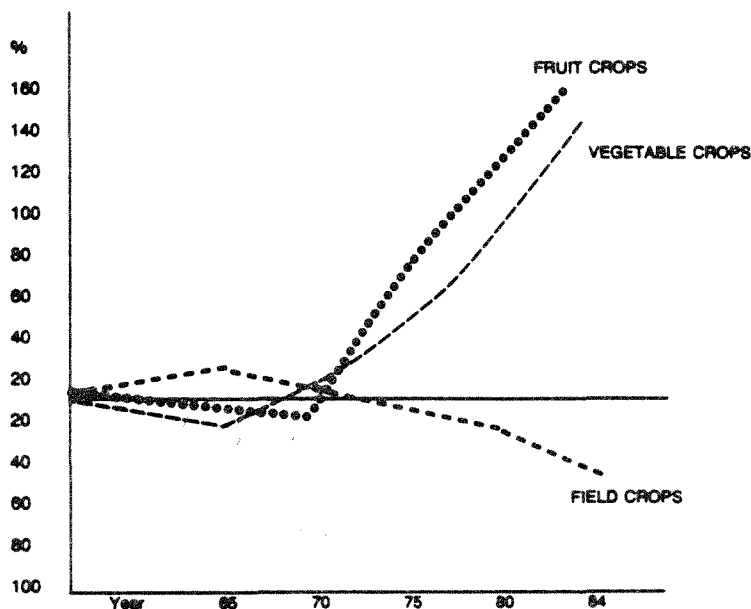
It has been predicted that California will experience growth in the area of FVH crop production in response to world market competition. In 1986, the California Economic Development Corporation studied the future of California trade with the Pacific Rim and reported that agriculture was one of the major industries developing trade with Pacific Rim nations. Dr. Juan Palerm, noted earlier, cites a growing trend in development by farmers of

labor intensive crops. Palerm contends that since labor intensive crops are more profitable than subsidies, such as cotton, grain or wheat, farmers are dedicating more acreage to labor intensive crops, which are mostly all fruit and nut, vegetable, and horticulture products (FVH) and are resistant to mechanized procedures. 55/ As an example, Palerm uses the county of Santa Barbara shown in Graph 14. Within this county, Palerm states:

Major fruit crops, with the exception of citrus, gained a total of 16,550 acres, representing an growth of 154% percent. Vegetable crops, without exception, grew to 38,868 acres in 1984, an increment of 142% per cent with respect to 1960 figures. 56/

GRAPH 14

Evolution of Field, Fruit and Vegetable crops in Santa Barbara County



Source: Juan Palerm, "Changing Employment Trends in California's Agriculture and the Formation of Chicano/Mexicano Enclaves: Policy Issues and Concerns," California Policy Seminar Proposal, April 15, 1987, p. 5.

In "man hour" figures, Palerm found that, in Santa Barbara County, while major field crops were responsible for the displacement of 121,063 man hours, fruit and vegetable crops have created a need for 4,466,879 additional man hours for agriculture work (see Attachment 6). Palerm's contention is supported by the California Agriculture: Statistical Review of 1985. Increased acreage and tonnage figures between 1981-1985 show a 2%

increase of total acreage between fruit and nut crops and vegetable and melons while field crops experienced a 2% decrease (see Attachment 7).

If Palerm's theory holds true, it can be concluded that labor intensive agricultural products are the aspect of farming that will increase with the development of Pacific Rim markets. In turn, IRCA will play a major role in providing the increased number of workers needed to harvest the FVH products. Drawing from the FVH statistics, the amount of laborers willing to work these areas will have to increase. The future labor need will have to be met through either RAW workers or through effective recruitment of domestic workers.

These issues have to be considered:

- Are there existing and potential benefits to the State in trading with foreign markets? If so, what factors will enhance California's competitiveness in the area of agriculture?
- Is California in a position to maintain its competitive role in foreign markets? If so, and it is desirable that the State keep its competitive edge, what policies should the State enact to allow for a maintenance of effort in this field?
- What are the implications for the existing farm labor workforce? Will it be necessary to activate the RAW program to remain competitive?
- What will be the consequences to California's social services programs and the farm labor workforce of recruiting foreign workers under the RAW program?

Agriculture Decline Model: International Competition and Mechanization

Philip Martin, noted earlier, sets forth another theory regarding foreign market competition. ^{57/} His theory is that the future growth of labor intensive products is dictated by consumer tastes, world market development and competition, and changes in production methods. While Dr. Martin concedes that consumer demand for agricultural products will continue to increase, he does not believe that increased trading with the Pacific Rim will be realized due to increasing world market competition and the process of mechanization. The competition Dr. Martin refers to is both with domestic and with international competitors.

Martin cites increased transportation costs and a decreased attractiveness of field crops as factors giving Midwestern and Southern states an edge over California with domestic markets. He also cites the development from such nations as Mexico, Chile,

and 22 other Caribbean nations as future competitors in the areas of winter fruit and vegetables. He contends that, competition from Italy, Spain, Israel, South Africa, and New Zealand are a reality today. In wine grapes, citrus, almonds, processing tomatoes, apples, and kiwifruit, these countries have penetrated traditional U.S. markets.

Another factor that cannot be ignored is the mechanization of labor intensive products. Dr. Martin contends that engineers have developed the machinery capable of picking most hand-picked commodities. He explains that advances in material sciences and electronics promises less bruising and faster sorting processes. These advantages in biogenetics and electronics could reshape production and reduce the demand for workers. 58/

If Dr. Martin's theory is realized, it seems that implementation of the RAW program will not be necessary since farmers will either rely on mechanizations or shift their focus to more cost-effective agricultural activities. If he is correct, these important questions will need to be addressed:

- Will the agricultural industry be able to adapt to the new technology?
- Given the present agricultural worker programs and the investments and capital cost accompanying the mechanization, is there enough of a motivating force to adapt to mechanized technologies?
- Will farmers make the transitions to mechanization when they have been historically relying on "cheap farm labor"?
- What employment future do existing and newly legalized farmworkers have?
- Whose responsibility will it be to retrain this workforce, assuming that there will be a decrease in need for farm labor?
- What other areas will be impacted if agricultural workers are dispensed? Social services? Other employment markets?

CHAPTER VIII.

CONCLUSIONS AND RECOMMENDATIONS

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CONCLUSIONS AND RECOMMENDATIONS

As discussed throughout this report, the agricultural industry has a significant impact on California's economy. The success of this industry is therefore important to the State. IRCA provides three agricultural worker programs to assure that the industry has a stable labor supply. However, the benefits that California and the agricultural industry will receive with the passage of the new law will most likely depend on how the State and the agricultural industry respond to (1) competitive challenges in the foreign market and (2) the needs of its farm labor force. Traditionally, the industry has depended on an undocumented workforce for which California as a State was not responsible. But with the implementation of IRCA, California is faced with a legalized farm labor workforce which is generally poor and living in underdeveloped rural areas. If the conditions of this workforce are not improved, the results may be increased social program costs and continued instability of the agricultural industry's labor workforce. In addition, the federal government will be expected to continue to provide services to the industry without assessing the roles and responsibilities of the industry in this area.

Following are short-term and long-term recommendations designed to address these issues.

SHORT-TERM RECOMMENDATIONS:

- The State Legislature should request the Auditor General to assess whether the State Labor Contractor Codes are being effectively enforced by the California Industrial Relations Department, Division of Labor Standards. The Auditor General report should include recommendations for improving enforcement, if applicable. The evaluation effort should include:
 - 1) A historical statistical analysis of the number of licenses issued, investigations conducted, and violations corrected.
 - 2) An analysis of the employment services that farm labor contractors provide the agricultural industry and their direct effect to farmworkers.
 - 3) A study of the direct effect that an increased use of farm labor contractors could have on wages and working conditions of employees.

- The State should evaluate whether the amount of surety bonds required for labor contractor registration in the State of California is adequately covering farm labor contractor damages. Legislative Hearings on this issue would assist the evaluation.
- The Legislature should request the Employment Development Department to provide a report by December, 1989, informing the Legislature of its:
 - perceived role in supplying California growers with the needed agricultural labor;
 - understanding of the characteristics of the farm labor force;
 - plans for developing and providing services to growers and farmworkers; and
 - future plans for measuring California's farm labor needs.
- The California Legislature should specifically request the Employment Development Department to establish an effective State institutional measure of the characteristics of California's farm labor workforce before 1990.

By 1990, California will have to supply Congress with a fair assessment of its farm labor needs in order for Congress to determine whether replenishment by foreign workers will be necessary. Without an adequate measure of its workforce, California will be unable to evaluate whether federal efforts in this area should be supported, as distinguished from focusing efforts on recruitment of domestic workers. If EDD intends to provide such a measure, the California Legislature needs to decide if the Department has the resources and abilities to do an effective job.

LONG-TERM RECOMMENDATIONS:

It is critical that long-term research be conducted and that it be done in a nontraditional manner, combining methodological research with practical concerns of policy makers. The California Legislature should seriously consider initiating and funding long-term research projects across the State of California which would answer some of the public policy questions raised in this report.

- **RECOMMENDATION:** California should initiate a full analysis of the State's agricultural industry which will examine:
 - 1) The future decline and growth models of agriculture as described by Drs. Palerm and Martin.

- 2) The need for recruitment of domestic workers, as distinguished from recruitment to California of foreign workers through implementation of the RAW Program.
 - 3) The coordination of the policies and programs affecting the existing migrating labor force (in-state, out-of-state, and documented immigrants) to ensure longer work periods and adequate annual incomes.
 - 4) The costs and benefits to the State of mechanization procedures.
 - 5) California's competitive future in foreign markets in relation to agricultural products.
- **RECOMMENDATION:** California should direct EDD to conduct annual surveys regarding its farm labor workforce in order to develop a profile of its workforce and its availability during peak harvest periods.

California needs to further understand the characteristics of its farm labor workforce and occupation. This includes the fluidity of the international and national [im]migrating farmworkers, the problems and inadequacies of the farm labor occupation, and the quality of state services provided to this workforce.

The labor coordination effort can provide a higher annual income for farmworkers and develop stable employment throughout the year. The potential long-term fiscal advantage of this effort could decrease costs and demands of social services traditionally provided by the State to this workforce. In addition, with job stability, domestic workers who would otherwise be unemployed may be attracted to this work.

A critical analysis of the argument that domestic workers will not work in farm labor should also be provided. The congressional decision to include three agricultural worker provisions in the Immigration Reform and Control Act of 1986 was based, in part, on the argument that domestic workers will not work in harvesting perishable crops resulting in a major economic loss for the nation. This premise must be critically analyzed to ensure the effective implementation of IRCA, specifically the RAW program.

ATTACHMENTS

ATTACHMENT 1.

CHART OF PUBLIC BENEFIT ELIGIBILITY FOR TEMPORARY & PERMANENT RESIDENTS UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

PROGRAM	<u>§245A TEMPORARY RESIDENTS</u>	<u>§245A PERMANENT RESIDENTS</u>	<u>§210 SPECIAL AGRICULTURAL WORKERS (SAWs)</u>
AFDC	Not eligible except Cuban/Haitian Entrants (C/HE) §245A(h)(1)(A)(I)	Not eligible except for C/HE §245A(h)(1)(A)(I)	Not eligible - see §210(f)
State-only AFDC	State may provide - see §245A(h)(1)(B)	State may provide- §245A(h)(1)(B)	Eligible ²
Foster care, adoption assistance & child welfare services (Social Sec. Act Title IV Parts B&E)	Eligible	Eligible	Eligible ²
Medicaid (Title XIX)	Aged, Blind & Disabled (ABD), aliens under 18, and C/HE who receive Refugee Medical Assistance (RMA) eligible for full services. Others eligible for emergency services or services for pregnant women only. §245(h)(1)(A)(II) and (h)(3)	ABD, under 18 and C/HE who receive RMA are eligible. Others eligible only for emergency services and services for pregnant women. §245(h)(1)(A)(II) and (h)(3)	SAWs who would be eligible for AFDC receive same restricted benefits as §245A amnesty aliens; other SAWs eligible for full Medicaid. See §210(f); 210(a)(5) and 210(g)
State and local medical care (not Medicaid)	Probably eligible (eligible in California under Welfare and Institutions Code §17000) §245A(h)(1)(B)	Eligible §245A(h)(1)(B)	Eligible ²
Food stamps	Not eligible, except possibly ABD and C/HE §245A(h)(1)(A)(III) and (h)(2)	Not eligible, except ABD and C/HE are eligible §245A(h)(1)(A)(III) and (h)(2)	Eligible ²
School lunch and ¹ breakfast	Eligible	Eligible	Eligible ²
WIC and other ¹ child nutrition	Eligible	Eligible	Eligible ²
SSI	Eligible §245A(h)(2)(B)	Eligible §245A(h)(2)(B)	Eligible ²

GRAPH #6-B

PUBLIC BENEFIT ELIGIBILITY

Page 2

PROGRAM	<u>§245A TEMPORARY RESIDENTS</u>	<u>§245A PERMANENT RESIDENTS</u>	<u>§210 SPECIAL AGRIC. WORKERS (SAWs)</u>
SSP	Eligible §245A(h)(2)(B)	Eligible §245A(h)(2)(B)	Eligible ²
Other Programs for ABD	Probably eligible depending on individual program restrictions §245A(h)(2)(B)	Eligible §245A(h)(2)(B)	Eligible ²
Other programs for C/HE	Probably eligible depending on individual program restrictions §245A(h)(2)(A)	Eligible §245A(h)(2)(A)	Eligible ²
General assistance	State may provide (eligible in California under §17000) §245A(h)(1)(B)	State may provide (eligible in California under §17000) §245A(h)(1)(B)	Eligible ²
Federal housing programs	Perhaps ineligible, depending on new HUD legislation and Attorney General designation. §245A(h)(1)(A)(I)	Perhaps ineligible, depending on new HUD legislation and Attorney General designation §245A(h)(1)(A)(I)	Eligible ²
Headstart ¹	Eligible	Eligible	Eligible ²
Job Training ¹ Partnership Act (JTPA)	Eligible	Eligible	Eligible ²
Title IV of ¹ Higher Education Act of 1965	Eligible	Eligible	Eligible ²
Block grants for ¹ social services (SSA Title XX)	Eligible	Eligible	Eligible ²

1. Section 245A legalization recipients made eligible by Section 245A(h)(4)
2. SAWs eligible by virtue of being deemed "legal permanent residents while in both temporary (§210(a)(5)) and permanent (§210(g)) resident status

THIS CHART WAS PREPARED WITH THE ASSISTANCE OF THE GOVERNMENT BENEFITS UNIT OF THE LEGAL AID FOUNDATION OF LOS ANGELES

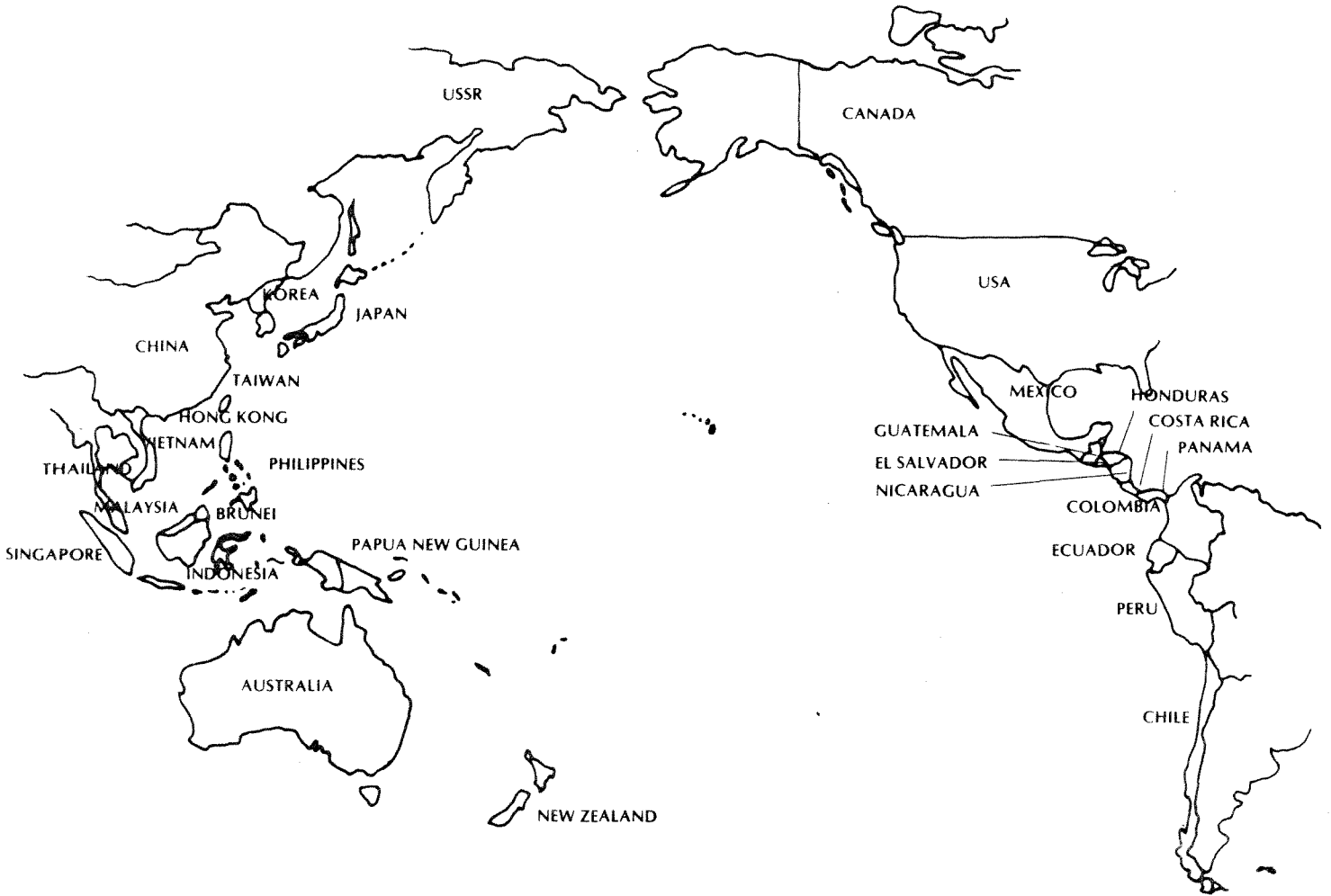
ATTACHMENT 2.

CRLA FARM LABOR CONTRACTOR CASES

<u>Case Title</u>	<u>Number of Workers</u>	<u>Unpaid Wages</u>	<u>Number of FLC Defendants (with a Surety Bond)</u>	<u>Status of Case (5/1/87)</u>
<u>Sastre v. Chavez</u>	130	39,897	1	St. Ct. Judgment agn FLC 1/86 Surety paid \$5,000; Labor Com. will pay approx. \$30,000 from Separate Account
<u>Zuniga v. Tex Cal</u>	85	31,534	1	St. Ct. Judgment agn FLC 9/86 Seeking to satisfy agn Surity and have filed claim agn S.A.
<u>62 Employees v. Martinez</u>	62	7,600	1	Fed. Ct. Judgment agn FLC 11/86 Seeking to satisfy agn Surety and have filed claim agn S.A.
<u>Padilla v. Serry</u>	Class Action	50,000-80,000	1	Pending in St.Ct.
<u>Valle v. Ramirez</u>	12	10,000	1	Pending in St.Ct.
<u>Lopez v. Rodriguez</u>	18	30,000	2	Pending in St.Ct.
<u>Silva v. Shavan</u>	9	5,000	1	Pending in St.Ct.
<u>Terrazas v. Barnachia</u>	Class Action	40,000	1	Fed.Ct. Judgment agn FLC 1983
<u>Rodriguez v. Becerra</u>	2	5,000	2	Pending in St.Ct.
<u>Aquirre v. Sanchez</u>	119	52,000	1	Pending in St.Ct.
<u>15 Workers v. Garner</u>	15	8,000	1	Pending in St.Ct.
<u>10 Workers v. Uqobortz</u>	10	3,000	1	Pending in St.Ct.
<u>Jimenez v. Flournoy</u>	6	10,000	2	Pending in St.Ct.
	TOTAL	\$287,800		\$80,000 (Total Surety Bonds)

Source: Mark Schacht, California Rural Legal Assistance
May 1, 1987.

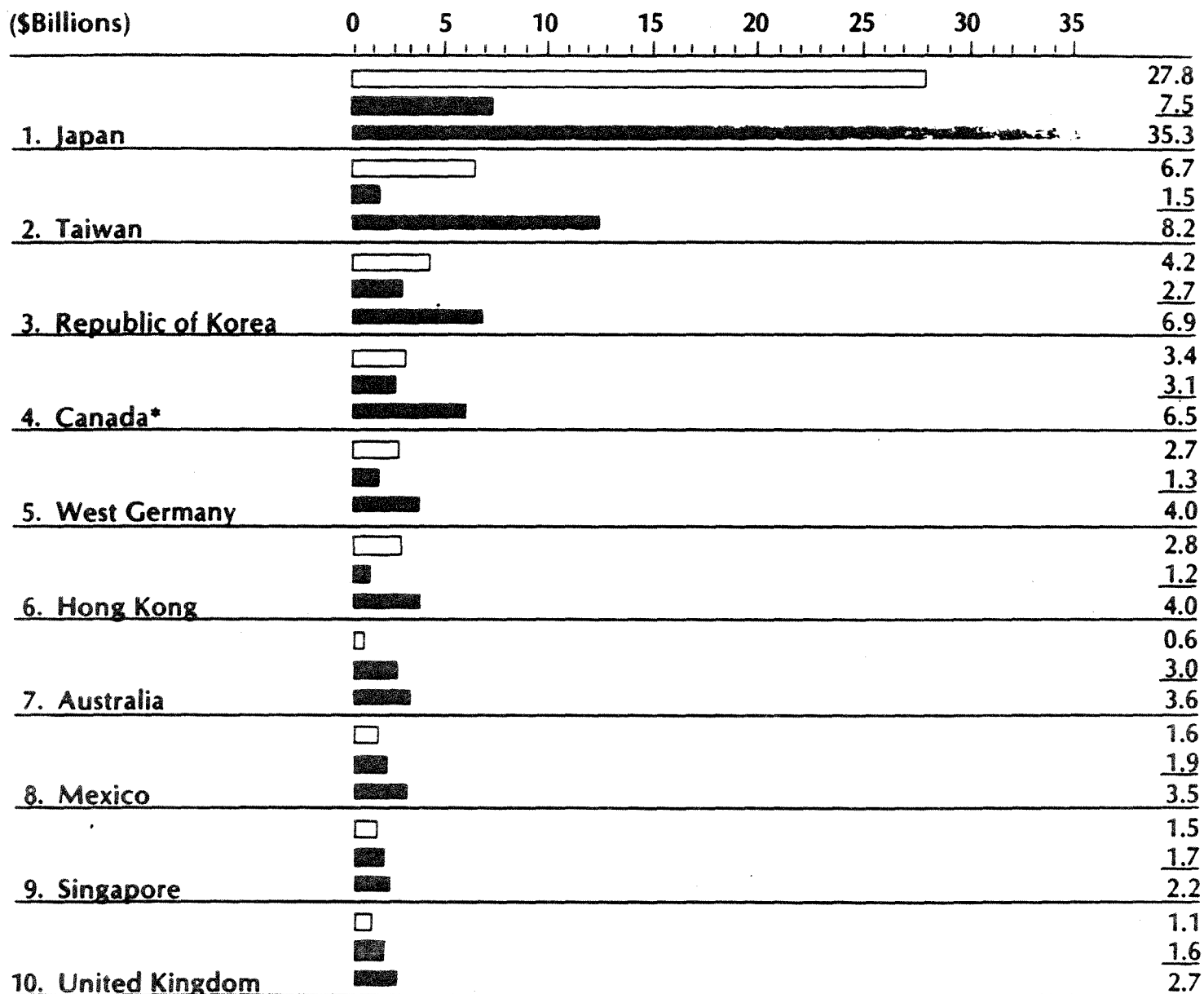
The Pacific Rim



CALIFORNIA'S LEADING TRADING PARTNERS

VALUE OF IMPORTS, EXPORTS AND TOTAL TRADE

1985
(\$ Billions)



*Source Canadian Consulate General: These figures reflect Canadian trade destined for or originating in California.

□ IMPORTS
■ EXPORTS
■ TOTAL

CALIFORNIA TRADE WITH PACIFIC RIM COUNTRIES 1985

	CALIFORNIA IMPORTS FROM	CALIFORNIA EXPORTS TO
Australia	\$ 635,620,814	\$ 3,037,200,780
Brunei	199,435	19,833,894
Canada*	3,364,885,000	3,069,349,000
Chile	79,565,878	42,593,012
China	936,087,803	709,640,117
Colombia	127,191,955	12,442,261
Costa Rica	39,291,623	7,171,480
Ecuador	127,092,110	18,024,430
El Salvador	61,874,604	21,077,727
Guatemala	29,297,472	5,330,068
Honduras	5,279,299	128,551
Hong Kong	2,752,452,292	1,238,115,129
Indonesia	1,064,801,347	274,912,544
Japan	27,769,272,710	7,470,199,369
Kampuchea	145,982	n.a.
Macau	117,379,117	383,069
Malaysia	1,295,331,461	1,041,944,636
Mexico	1,653,406,363	1,855,689,078
New Zealand	235,193,520	394,527,771
Nicaragua	17,098,034	5,108,336
Korea, North	13,241	n.a.
Korea, Republic of	4,173,143,314	2,651,498,192
Pacific Islands	9,111,149	119,617,020
Panama	135,240,836	46,517,798
Papua New Guinea	23,731,928	33,650,008
Peru	98,178,234	13,409,413
Philippines	901,627,937	772,785,642
Singapore	1,497,040,358	1,703,963,240
Taiwan	6,687,402,942	1,460,747,102
Thailand	587,809,381	316,805,329
U.S.S.R.	10,682,267	99,241,242
Vietnam	n.a.	12,827,628
Western Samoa	17,267,627	1,474,873
TOTAL	\$54,452,716,033	\$26,456,208,739

*Canadian Consulate General figures reflect Canadian trade destined for or originating in California, rather than that passing through California customs districts.

ATTACHMENT 6.

A

FIELD CROPS (STA. BARBARA CO.)						
CROPS	ACREAGE			LABOR (Man Hours)		
	1960	1984	Difference	1960	1984	Difference
GRAIN	13,869	6,884	-6,985	20,804	10,326	-10,478
SUGAR BEET	2,861	894	-1,967	92,553	28,921	-63,632
DRY BEAN	16,607	11,612	-4,995	156,106	109,153	-46,953
TOTAL	33,337	19,390	-13,947	269,463	148,400	-121,063

B

FRUIT CROPS (STA. BARBARA CO.)						
CROPS	ACREAGE			LABOR (Man Hours)		
	1960	1984	Difference	1960	1984	Difference
GRAPES	-	9,348	9,348	-	934,800	934,800
AVOCADOS	1,635	14,658	13,023	273,045	2,447,886	2,174,841
CITRUS	8,275	2,049	-6,226	1,158,500	286,860	-871,640
STRAWBERRY	798	1,203	405	359,100	541,350	182,250
TOTAL	10,708	27,258	16,550	1,790,645	4,210,896	2,420,251

C

VEGETABLE CROPS (STA. BARBARA CO.)						
CROPS	ACREAGE			LABOR (Man Hours)		
	1960	1984	Difference	1960	1984	Difference
LETTUCE	4,220	8,800	4,580	337,600	704,000	366,400
BROCCOLI	7,642	19,462	11,820	611,360	1,556,960	945,600
CAULIFLOWER	1,919	7,585	5,666	185,184	731,953	546,769
CELERY	2,233	3,021	788	532,347	720,206	187,859
TOTAL	16,014	38,868	22,854	1,666,491	3,713,119	2,046,628

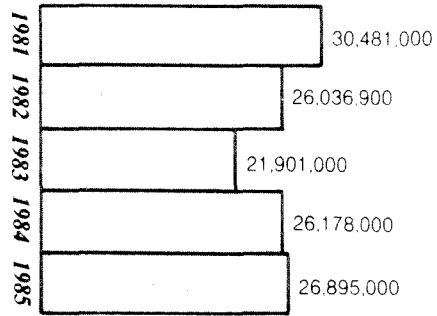
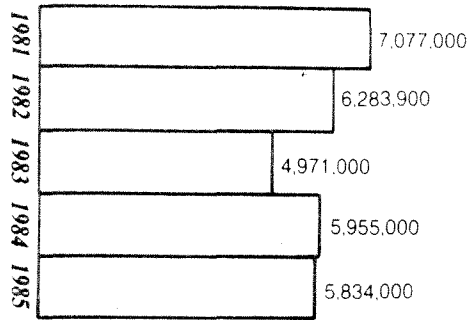
Acreage Harvested

Acreage harvested chart are proportional within their category but not proportional to each other.

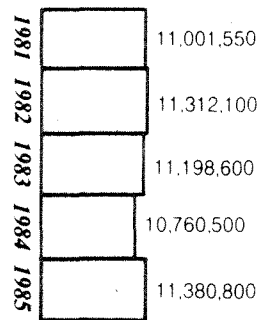
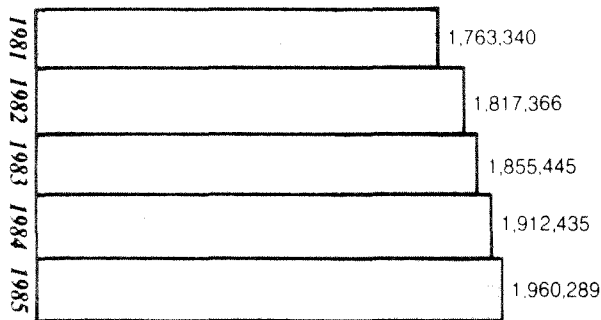
ATTACHMENT 7.

Production (Short Tons)

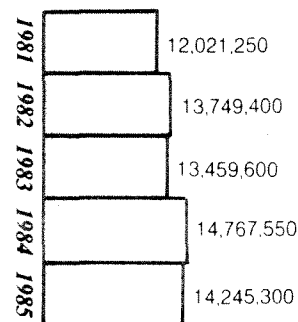
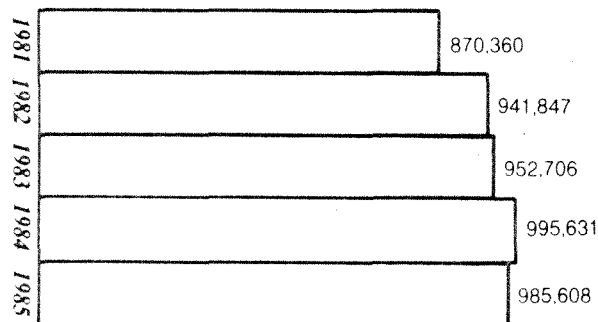
Field Crops



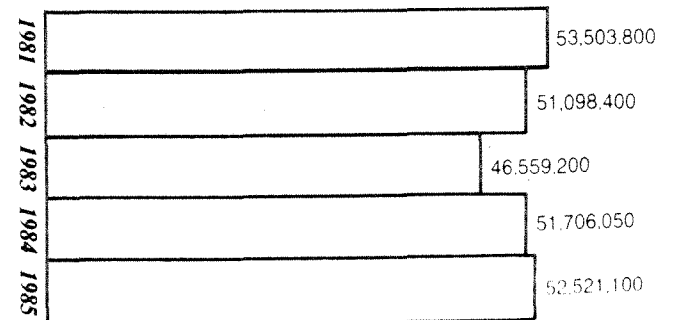
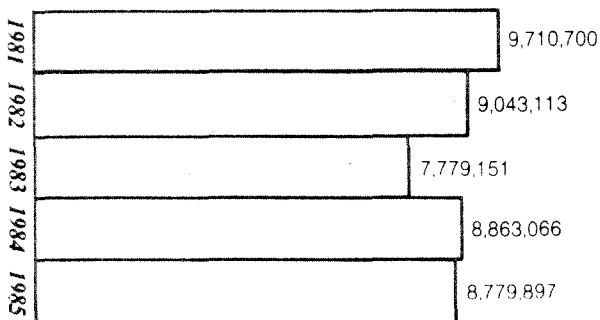
Fruit and Nut Crops



Vegetables and Melons



Total



FOOTNOTES

FOOTNOTES

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