

# KNOWLEDGE EXCHANGE PARTNER

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## H-2A Usage Approaches 200,000 Workers

Labor has always been a critical input for American agriculture. While some sectors have become highly mechanized, others such as fruits, vegetables, dairy, nursery and greenhouse continue to use a great deal of hand labor.

With local labor increasingly hard to find, many producers use the H-2A temporary visa program as a way to obtain reliable, legal workers for their seasonal labor needs.

Since 2006, the number of national H-2A worker certifications has more than doubled. However, the system has struggled to keep up with the increase in applications and provide a timely, reliable option for farmers.

While we have seen a significant increase in H-2A participation nationally (Figure 1), the number of H-2A workers in the Northeast has been increasingly more variable. Still, it has increased from roughly 6,000 workers in 2010-2012, to more than 8,000 workers last year (Figure 2), as local labor markets have tightened.

Since 2006, the  
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**U.S. H-2A Worker Certifications**

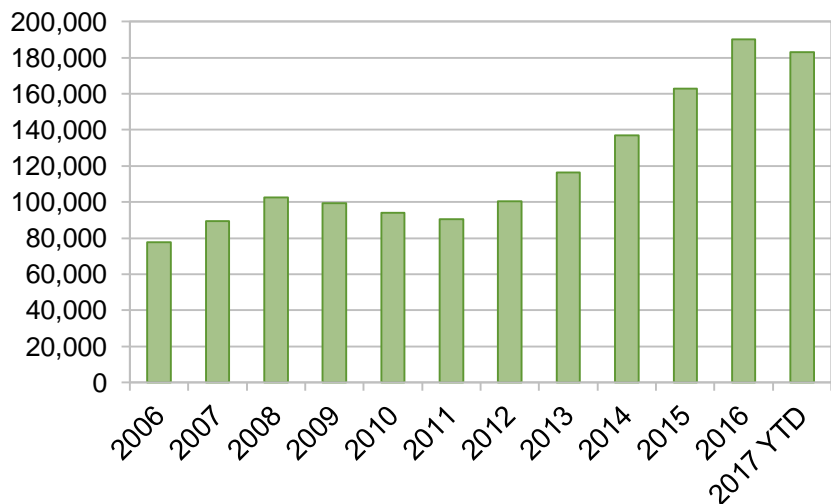
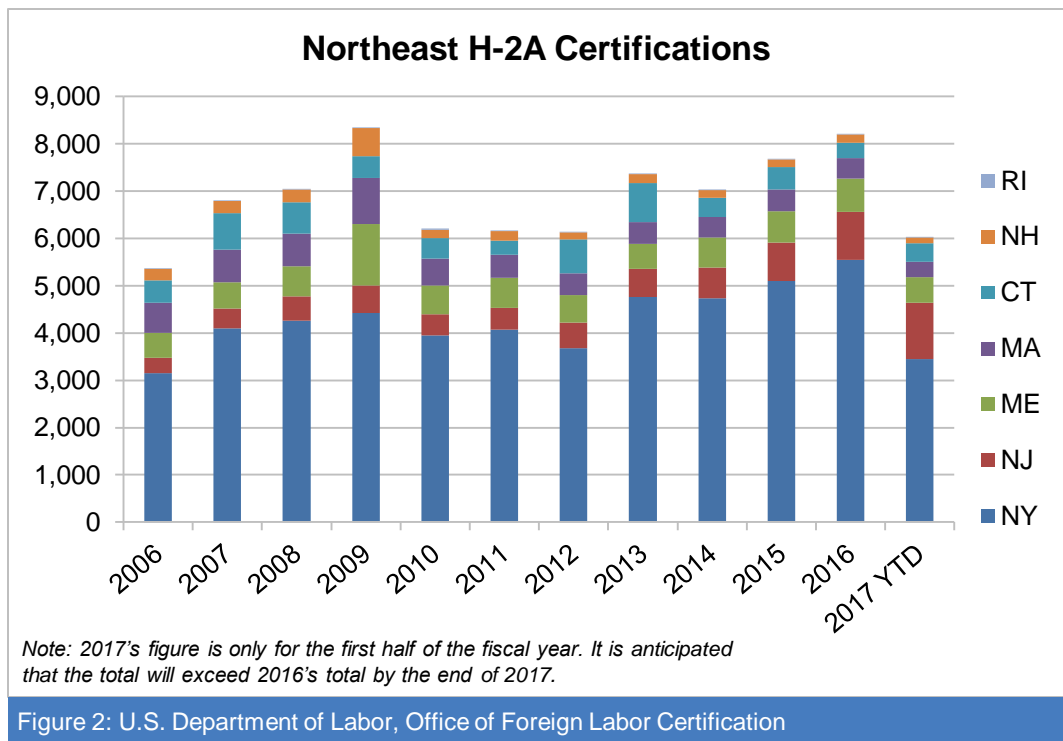


Figure 1: U.S. Department of Labor, Office of Foreign Labor Certification

Another interesting finding from the data is that farms of all sizes are using the program. In Figure 3, note the relatively low number of H-2A workers per farm. While there are a handful of large H-2A employers in most states, the typical farm is only getting a limited number of workers.

The H-2A program was instituted to meet a need for seasonal and temporary labor in the U.S. by providing foreign nationals legal permission to come to the United States and work in specified jobs for a limited period of time, after which they return to their home countries. As stated, the program is limited to “seasonal” or “temporary” work, making it unavailable to year-round employers such as dairy farms, which have no legal visa programs available to them.<sup>1</sup> The

program is divided into H-2A for agriculture and H-2B for other occupations.<sup>2</sup> The H-2B program has been limited to 66,000 in recent years, a cap that is typically reached within the first half of the federal fiscal year. In July, the



State	No. Farms	No. H-2A Workers	Avg. per Farm	Range per farm	Most common sectors	Avg. Wage Rate
CT	52	327	6	1-90	Apples, Tobacco, Nursery/Greenhouse	\$11.74
ME	74	700	9	1-125	Fruit, Logging, Equipment operation	\$13.76
MA	121	437	4	1-26	Apples, Vegetables	\$11.74
NH	38	169	4	1-15	Apples, Nursery/Greenhouse	\$11.74
NJ	49	1,016	21	2-106	Vegetables, Nursery/Greenhouse	\$11.65
NY	381	5,551	15	1-190	Apples, Vegetables, Nursery/Greenhouse	\$11.70
RI	4	4	1	1	Fruits, Vegetables	\$11.74
<b>Total</b>	<b>719</b>	<b>8,204</b>	<b>11</b>	<b>1-190</b>		<b>\$11.87</b>

Figure 3: Fiscal Year 2016 Data, U.S. Department of Labor, Office of Foreign Labor Certification

<sup>1</sup> Farm Credit East and other farm organizations have advocated for allowing such year-round employers to be fully eligible for the H-2A program.

<sup>2</sup> Some agricultural enterprises use the H-2B program as well for workers in “non-ag” positions, such as processing and shipping.

Department of Homeland Security announced a one-time increase of up to 15,000 additional visas for FY 2017. The H-2A program has no cap.

The programs are managed by three federal agencies: the Department of Homeland Security (DHS), the Department of Labor (DOL) and the Department of State (DOS). The DHS U.S. Citizenship and Immigration Services (USCIS) adjudicates the H-2 petitions; the DOL issues the H-2 labor certifications and oversees compliance with labor laws and the DOS issues visas to workers at consulates overseas.<sup>3</sup> Additionally, state departments of labor are tasked with making on-farm inspections. With so many departments and agencies involved, it is no surprise that H-2A employers are among the most heavily scrutinized and monitored employers in the country. Additionally, the opportunities for miscommunication and delays are significant.

H-2A employers must comply with all federal and state labor regulations, and workers are covered by most U.S. labor laws, including the Wage and Hour Act, Workers' Compensation and the Affordable Care Act. Employers must first recruit employees within the U.S. and preferentially hire U.S. citizens. H-2A workers must be paid the higher of the federal or state minimum wage, the applicable prevailing hourly wage rate or the applicable adverse effect wage rate (AEWR) for their state. For New York, the 2016 average AEWR wage rate ranged from \$10-14 per hour, depending on job description. Any local hires doing the same job as H-2A workers must be paid at least that rate as well. On top of the AEWR, employers must pay for transportation to and from the worker's home country and provide housing free of charge (which must meet specific minimum standards).

With all these expenses, the H-2A program is clearly not a cheap way out of one's labor problems. However, many H-2A employers swear by the program, stating that the increased costs and headaches are worth it to get a reliable, high-quality, legal workforce. Many H-2A employers report that a significant number of the same employees return year after year. The fact that participation in the program has grown so much at the national level – despite significant regulatory hurdles and high costs – is a testament to the tremendous challenges farmers face in finding legal and reliable workers.

However, the program continues to have challenges. For the last two years, H-2A employers have reported significant and unexpected delays in the processing of labor certifications, visa petitions and interviews for final border crossing, leading to the delayed arrival of workers on farms.

The DOL is required by statute to respond to completed applications no later than 30 days prior to the farmer's date of need, a rule which is reportedly not being met in some cases. This can be highly disruptive to growers who count on these workers to perform time-specific tasks such as planting, pruning, harvesting and other critical activities that cannot wait for a paperwork delay.

Going forward, it is imperative that the nation's temporary visa programs are improved if we are to maintain American agriculture as an ongoing source for abundant, affordable, safe and domestically-produced farm products.

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3 U.S. Department of Homeland Security, "H-2A Temporary Agricultural Worker Program".

# Preparing the Next Generation for Farm Management

A major generational transfer is occurring in agriculture, both in the Northeast and nationwide. Over the next 10 years, thousands of farms across the region will transition management to a younger operator.

What are some of the key challenges facing this next generation as they prepare to take over a farm? There are two key skill sets a farmer needs to have:

- 1) Production knowledge, knowing how to grow crops, raise livestock and, in general, carry on day-to-day operations of the business.
- 2) And perhaps just as important, though sometimes overlooked, is the need for business management skills.

Here are a few key things to think about when planning a generational transfer:

## Are the goals of each generation aligned?

For many multi-generational farms, aligning the personal and professional goals of the incoming and exiting generations represents a substantial challenge. Often the exiting generation wants to avoid risk; pull cash out of the business and slow down. Meanwhile, the incoming generation may want to grow and expand the business by investing in new equipment and facilities. This can be a source of conflict.

## Is the older generation ready to let go?

For the next generation to succeed, they need the ability and the authority to begin to manage the business. At the same time, the senior generation has a tremendous amount of institutional knowledge that can still benefit the business. Some of the more successful transfers occur when the next generation has the opportunity to run with their own ideas, but the senior generation is still close by to consult and guide the younger generation, particularly in the first few years.

## Does the business need to change to survive?

The existing business model may not be able to survive a generational transfer. This can be hard to deal with, but the earlier it is recognized, the better. For example, a marginally profitable farm may generate enough income for a couple nearing retirement, but not enough for a young family that plans to send kids to college. Another situation may be a farm that is generating cash income, but essentially living off of depreciation with a lot of deferred maintenance and investment needs. It may be a business model that worked in the past, but needs to change to meet the demands of today's marketplace. Alternative business models could consider access to new markets, the addition of products or changes to business operations.

As stated earlier, the incoming managers need to have both the industry skills as well as the financial management abilities needed to run a successful farm. Today's tight margins require strong business management skills. Bringing the next generation into the financial management of the farm early, well before any transition, can be a positive step in ensuring success down the road.

## Are there legal or tax considerations that need to be addressed?

Transitioning a farm often involves legal and tax implications. It is important to ensure that the transition occurs smoothly, that the goals and interests of the exiting generation are protected, and that tax implications are managed.

*Continued on following page*

## Farm Credit East is here to help.

Farm Credit East offers a variety of services to help farms successfully transition to the next generation. Our consultants are skilled in both the technical aspects of estate planning as well as having “soft skills” to help with conflict resolution and communication. Our tax planners can help manage the tax implications of an ownership transfer. Our credit staff can help with cash and investment needs that a transfer may entail. And, our GenerationNext program can help the next generation build those critical business management skills that are so important for their success.

Held over three sessions in the fall and winter, GenerationNext is a comprehensive series of seminars covering important management topics:

- Leadership and human resource management
- Using financial records to manage and develop business goals
- Marketing
- Risk management
- Business planning

The course is designed for individuals with some management experience, and who are ready to take their skills to the next level. It does not assume any specific financial background. Most participants are those who are preparing to assume a greater role in the management of their farms, either as owners or key employees.

A complete listing of upcoming GenerationNext session dates and locations is available at [FarmCreditEast.com/GenerationNext](http://FarmCreditEast.com/GenerationNext). It is not necessary to have an existing relationship with Farm Credit East to attend. Contact your local Farm Credit East office, or call (800) 562-2235 for more information or to sign up.

### CONTACT INFORMATION

We look forward to your questions about Knowledge Exchange Partner and your feedback:

[FarmCreditEast.com/KnowledgeExchange](http://FarmCreditEast.com/KnowledgeExchange)

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