**“We Do Not Wish To See The Border Formalized:” Administrative Discretion & the Making of Pseudo-Guest Workers**

Rosario Contreras had an illustrious migration history. He was born in Ojinaga, Mexico and first entered the United States as an undocumented worker in the early 1950’s. While trips North had always been risky for so called “*mojados*,” undocumented workers, bad luck became even more common as the US government cracked down on unsanctioned workers in 1954. So, Contreras decided to try his luck as an *aspirante*, an aspiring contract worker. He borrowed $600 from his brother, used the loan to pay a few compulsory bribes, and finally managed to secure a work contract as a Bracero. The work was hard but the pay was better than anything he could find in Mexico, so he kept returning to the US. But as the years continued, Contreras explained, the cost of bribes increased, and his wages stagnated. When corrupt officials demanded $1,000 for a contract, Contreras felt he had no choice but to risk entering the US without documentation in the hopes his former employer would hire him again.

“When [my patron] heard I had jumped the fence he got paler than he usually is,” Contreras joked, “He was glad to see a good worker back, but that he wanted no trouble with illegal workers. He told me to go back to Tijuana, and he would sponsor me with papers and everything. I finally got a tarjeta verde [Green Card] and was made an immigrant. I could live in San Diego, but who can at those prices? So I cross the line every morning at 4:30 am, picked up on the American side by a truck from my patron's farm, and taken to work in the lettuce fields."[[1]](#footnote-2)

 Contreras was one of countless “Green Card Commuters,” -- workers who were admitted to the US for permanent residence but maintained their homes in adjacent Mexican cities opting to cross the border on a daily or seasonal basis to their place of work. The existence of these international “commuters’” derived from an ambiguous legal status which did not “fit into any precise category found in the [federal] immigration statutes.”[[2]](#footnote-3) Rather, it was created by the Immigration Service through administrative fiat to resolve unwanted European immigration from the US’ northern border.[[3]](#footnote-4) However, Mexican commuter labor soon came to underwrite the expansion of the Southwest’s political economy throughout much of the twentieth century. This was due in large part to the Immigration and Naturalization Service’ (INS) and Consular Office’s bureaucratic practices. As I will show in this paper, the agencies used policies of structured ambiguity, administrative discretion, and systemic abandonment, to transform the Green Card Commuter status into a de-facto guest worker program.
 The seeming permanence of green cards has allowed them to occupy a coveted status in the popular imagination. It is easy to believe that its holder is granted a series of enviable and inalienable rights; the right to be territorially present, to work in, and ultimately become a citizen of the United States. But recent scholarship has demonstrated that as the US immigration system has adopted carceral strategies, permanent residency status has been imbued with increasing precarity. Since the late 1990’s, Green card holders have been subjected to growing rates of surveillance, detention, and deportation.[[4]](#footnote-5) But green carders “liminal legality” or “permanent temporariness” has generally been treated as recent phenomena, a byproduct of carcerality and 9/11.[[5]](#footnote-6) In fact, its roots are more historical, and its origins had less to do with removal than with keeping people moving.
 While immigration and labor historians have acknowledged the existence of transnational Mexican commuters, no major works have ever been written on the subject. Scholars like Kelly Lytle Hernandez, Kitty Calavita, and Mae Ngai have characterized the 1950’s as a period of labor management wherein the Immigration and Naturalization Service balanced growers’ labor needs with its own enforcement mandates.[[6]](#footnote-7) To achieve this equilibrium, the INS utilized a two-pronged strategy. They launched a mass deportation campaign to flex their removal capacities to growers, while also legalizing thousands of undocumented workers under the Mexican Farm Labor Program. Also known as Public Law 78 (PL 78) or the Bracero Program, the initiative temporarily contracted Mexican laborers to work on US agricultural fields. The Immigration Service’s self-professed victory over the border was undermined when Congress ended the Bracero Program in 1964 and then passed the Immigration and Nationality Act of 1965 which placed numerical restrictions against Western Hemisphere immigration for the first time in history. Scholars argue that these events dammed the rivers of legal agricultural labor migration resulting in increased undocumented populations. At the same time, the 1969 launch of Operation Intercept, a US border effort to stop drugs from entering the US from Mexico, consolidated immigration and crime enforcement in the INS’ and the nation’s psyche. Together, these events heralded in the era of aggressive enforcement tactics and mass deportation.
 But this historiographic retelling does not account for international commuters. Contrary to what immigration historians have argued, I demonstrate that the legal corridors of agricultural labor migration were not as closed as they seemed in 1965. In fact, growers spent the first years of the 1960’s insuring themselves against the eventual termination of the Bracero Program by sponsoring “the best of their braceros” for permanent residency.[[7]](#footnote-8) While the literature has noted that this sponsorship took place, no works have examined how or why it occurred. Nor has the scholarship accounted for the fact that many of these new “permanent residents” were not always able to permanently reside in the United States. Examining the history of green card commuters allows us to account for the ways agricultural labor and national immigration law changed in the 1960’s. I argue that growers used green card commuters to reproduce the relations of production which had reigned since the early days of the Bracero Program. This transition was made possible by government administrations who used their discretionary power to enable the bracero to commuter shift.

**The Bracero Program:**

 This paper begins in 1959 when the US Department of Labor (USDL) and national unions became increasingly interested in reforming agricultural labor markets. Regulating the Bracero Program, or from the union’s standpoint, terminating it entirely was of primary interest. Since its inception in 1942, the Bracero Program had large scale impacts on the development of the California agricultural landscape and its corresponding labor regimes. For growers, the program was advantageous because it ensured them access to cheap, foreign and docile labor. Employers could rest assured that the government would secure and deliver workers, freeing growers to expand their landholdings. By the same measure, employers knew that officials would ensure that braceros left the area when their contracts expired therefore there would be no need to build school or housing for agricultural workers’ families. While the international agreements between the US and Mexico required employers to provide contract workers with satisfactory housing, food, and transportation, the program was rife with violations. Nor did the accords do very much to protect US domestic laborers. Through the years, braceros were used to drive down agricultural wages, break strikes, and saturate labor markets even though the accords forbade these practices. Government officials systematically failed to ensure that domestic workers would be given preference over contract laborers. At the same time, the Immigration Service was curiously adept at deporting braceros who violated their contracts by striking or organizing their fellow workers.[[8]](#footnote-9) The Bracero Program effectively, as one scholar put it, “recalibrated the relations of production to a standard set by indentured labor.”[[9]](#footnote-10)
 But by 1959, public and government support for the Bracero Program began to erode. After some internal pressure, George Meany, the leader of the national American Federation of Labor – Congress of Industrial Organizations (AFL-CIO) decided to allocate one million dollars to create a new farm worker union – the Agricultural Workers Organizing Committee (AWOC). Their campaign began in California’s Central Valley and their strategy was relatively simple. Organizers would infiltrate the labor pool by joining shape ups and would then organize a strike from the inside. A few days later, domestic workers would walk out of the fields demanding a pay increase. Their efforts were aided, in large part, by the USDL’s newfound willingness to enforce the Bracero international agreements. As a result, whenever a bona-fide labor dispute occurred, the Department would have braceros removed from struck fields. Not only did this (generally) prevent the immediate hiring of contracted strikebreakers, it also gave a AWOC a “shortcut to organizing” since they only needed to organize a segment of domestic workers to halt production and increase wages. By 1960, AWOC had engaged in eighty-five certified strikes, and they had no intention of stopping.[[10]](#footnote-11)

 **10,000 Visas:**

The Imperial Valley Farm Association (IVFA) followed the development of the Central Valley strike wave from their empire along the US-Mexico border. What they saw concernedthem. Imperial Valley growers were especially vulnerable to AWOC’s strategy because their workforce was almost entirely composed of braceros. Theoretically, if the union organized a strike among a handful of domestic workers, the USDL would embargo access to braceros, leaving Imperial growers entirely without a labor force. As the relations of production shifted under their feet, the IVFA strategized to use AWOC’s scheme against itself by essentially packing the domestic labor pool with green card workers who were statistically considered “domestics.”
 The logic of their plan was devilishly simple. The USDL stipulated that contract workers could not be employed if there was evidence that a strike or lockout was at hand. But this provision did not apply to the strikers’ fellow domestic workers who were not contracted and thus free to work wherever they wanted. In 1960, braceros made up, by some estimations, 80% of the IV labor force. As such the IVFA realized that AWOC would only need to organize a handful of an already small pool of domestic workers to bring Imperial Valley agriculture to a standstill. But, they reasoned, if the domestic worker population was to suddenly expand by a couple thousand AWOC’s advantage would be completely compromised. The union would then have to organize an even larger number of workers, the majority of whom would have the Association to thank for their green cards and newfound status as US permanent residents. With this plan in mind, Kieth Mets, IVFA President and Edward Hayes IVFA Manager approached the American Consular Offices in Mexicali and Tijuana on September 20, 1960. Mets did not bother to veil his intentions under the often citated and usually false claim that there was a labor shortage. In a later report to higher level officials in the Department of State, the American embassy recounted the IVFA’s proposition:

“..Farmers in Imperial Valley are concerned that an attempt will be made to organize farm labor… during the forthcoming harvest season and that 'labor conflicts' which may develop in the process will prevent Imperial Valley farmers from utilizing 'braceros' from Mexico to help with the harvests as been traditional in the area. In order to protect themselves from crop loss insofar as possible, Imperial Valley farmers wish to have the immigrant visas cases of former "braceros" totaling approximately 6,000 individuals, processed at the earliest possible date.”[[11]](#footnote-12)

 In reality, the IVFA was seeking to sponsor more than 6,000 braceros as there were already an additional 4,000 on the consuls’ waiting lists.[[12]](#footnote-13) But Mets and Hayes were sympathetic to the complications and delays their request would incur on the consul, so they offered to support the federal agency. They assured the administration that the IVFA was willing to pay for or otherwise supply any additional clerical help the consul needed to expedite the braceros’ visas. The ambiguous conditions of the proposal were suspiciously open to interpretation. It would not take a stretch of the imagination for consular agents to believe they could ask for more financial “support” than the office actually needed to process the visas. It is difficult to prove, beyond a reasonable doubt, that the offer was tantamount to a bribe. Even so, the IVFA’s proposal should be contextualized within the personal and professional histories of one of its authors. Hardly more than a year before his meeting with the Consular agency, IVFA Manager Edward Hayes had been the chief of the Farm Placement Service -- a California state agency which was responsible for placing bracero and domestic workers into agricultural jobs. However, he begrudgingly resigned after the agency was investigated for giving braceros preference over domestic workers and accepting “gifts” from growers.[[13]](#footnote-14)
 In October 1960, with the Imperial Valley harvest only two-months aways, Consular agents and Immigration Service officials scheduled an interagency meeting to discuss the possibility of expediting the IVFA’s 10,000 visa request. Even though growers had solicited their petition explicitly so they could circumvent labor organizing efforts, neither the Consul nor the Immigration Service had any serious objections to the Association’s proposition. Instead, the agencies were primarily concerned with the legal challenges they would need to confront before they could distribute any visas to the 10,000 waiting braceros. Their main concern was that the Consular office would need to run the request by the USDL.[[14]](#footnote-15) Since 1952, Section 212 (a) (14) of the Immigration Nationality Act (INA), known also as the McCarran-Walter Act, forbade aliens from entering the country to procure employment if the Secretary of Labor certified that there were already workers in the US willing to fill the prospective job or if the alien’s admission would adversely affect the wages and working conditions of domestic workers.
 When the proposal reached the desk of Robert C. Goodwin, director of the USDL’s Bureau of Employment and Security (BES), the administrator cited three reasons why the proposition could not move forward. First, Goodwin asserted that his agency had found no evidence to indicate that 6,000 permanent jobs were available in the Imperial Valley. This was an important factor since employers were required to provide year-round employment if they wanted to sponsor an immigrant. Second, Goodwin surmised that the braceros’ permanent entry could have an adverse effect on the domestic workers outside the Imperial Valley. Working conditions in the desertous IV were notoriously difficult and the BES often found that workers who could depart “at will”, that is to say those who were not required by international contracts to stay, often left the region for easier work.[[15]](#footnote-16) Without the legal incentives to remain, Goodwin suspected that the admitted braceros would eventually migrate to northern agricultural regions, saturate those labor markets, and trigger stiff job competition. Finally, he expressed concern with the suddenness of the Association’s request and speculated that the IVFA was sponsoring the visas so they could have a resident workforce in place in case of a strike.[[16]](#footnote-17) His assessment is notable, not only because he guessed correctly, but because he guessed at all. His suspicions suggest that neither the INS nor the Consular agents informed the USDL that the Grower Association was indeed sponsoring braceros for that very reason.
 As the state administrators conferred over the technicalities of the IVFA’s proposal, AWOC had its own questions about the INS’ green card distribution process. During its organizational efforts in the Central Valley, the union had become increasingly concerned with “green card” holders’ growing presence in the California fields. In November 1960, AWOC dispatched its director of research, Henry Anderson, into the field so he could gather more data on these migrating Mexican farmworkers. The scholar-turned-organizer had experience investigating agricultural labor markets, having produced a critical dissertation on the IV’s monopoly use of braceros. The project was so damning, Anderson was eventually banned from the Bracero recruitment area by Washington officials and the University of Berkely forbade him from publishing a bulk of his findings.[[17]](#footnote-18) Now in 1960, Anderson was determined to discover how or whether federal immigration law protected domestic workers against green card labor.
 To this end, Anderson scheduled a series of meetings with officials in the USDL, Mexican Embassy, Bureau of Employment Security, Farm Labor Service, and the President's Committee on Migratory Labor. What he learned left him with little confidence in the federal agencies ability to protect domestic laborers. The problems began as soon as an alien initiated the application process, Anderson outlined in his report to AWOC director Norman Smith. First, the worker had to procure a Mexican passport, a step which was available only to those who could pay the right bribe for it. Then, migrants had to submit a job offer letter to the consul wherein their sponsor promised to provide the migrant with permanent employment. When Anderson suggested that these letters could be either fraudulent or for sale to the highest bidder, Washington officials expressed their incredulity at very the notion. Once aliens were admitted for permanent residence and given a green card, Anderson continued, they effectively disappeared into US labor markets. No federal branch was responsible for tracking where they went, whether they acquired the work they had been promised, or how much they earned. “Without this data,” Anderson scoffed, "it is nonsensical to talk (as the McCarran-Walter Act itself talks) of 'adverse effect'…"[[18]](#footnote-19)
 In other words, there was no administrative infrastructure in place to determine what effects green carders had on the labor market, leaving labor organizers to sort out the information for themselves. As a result, Anderson outlined, the admitted migrants could have deleterious and unidentified effects on the pool of existing domestic farmworkers by strikebreaking, engendering job competition, creating a wage freeze, or failing to ever establish a US permanent residence opting instead to live in Mexico. The organizers guessed that growers were sure to exploit these failures in the immigration system by using green carders to supplement bracero labor. Anderson’s experience researching the corruption in the Bracero Program gave him reason to believe that the culture of ignorance which interviewees displayed went beyond casual incompetency. Upon submitting his report, Anderson presaged his findings with a condemnation: “I think it fair to say that this ignorance and confusion are deliberately preserved by those who profit by the existence of *this latest form of cheap foreign labor*."[[19]](#footnote-20)
 What Anderson did not know, but correctly suspected, was just how right he was. As he authored his investigative piece on green card labor, consular agents and INS officials unsuccessfully tried to push the IVFA’s 10,000 visa request forward. Despite its eventual failure, the Association’s attempts were significant for three reasons. First, it highlights how the relations of agricultural production began to change in 1960.As the USDL made it less convenient to hire or obtain contract workers, growers tried to secure the “latest form of cheap foreign labor.”Second, it demonstrates that growers tried to restructure their relationships with braceros by tethering contract workers to the migratory circuit under a different legal framework. Thus, the new labor force, green card holders, was really composed of the old guard, braceros. Finally, it reveals that administrators in the Department of State, Immigration Service, and USDL were aware of the growers’ intentions, even as they feigned ignorance before union officials.
 In January 1961, Mets and Hayes fears were actualized when AWOC strikes sprang across the Imperial Valley. The events of that winter are multifaceted, and it would take a book to properly unravel them. For the purposes of this paper, it is important to know that the IV strike was AWOC’s greatest show of force and it eventually led to its demise. During the course of the strike, a federal judge decided that the Department of Employment could not bar growers from using braceros on struck fields. The decision was promptly followed by the deputization of three hundred growers and businessmen which only served to increase tensions. Desperate to have braceros removed, AWOC members resorted to violence, attacking contract workers in fields and labor camps. In response, the Mexican consul petitioned the US government to remove the braceros, which eventually it did, but by that point the damage was done. The harvest was over and public relations had soured on AWOC. The AFL-CIO revoked the organization’s funding and many of its militant leaders were removed from their posts.[[20]](#footnote-21) Despite their victory, growers recognized that AWOC had found a way to turn employers’ greatest source of the strength, contract labor, to their advantage. As a result, growers began to insure their harvests against bracero loss, by diversifying their labor supply to include green card laborers. Considering that AWOC was drastically weakened after the Imperial strike, there was not a union infrastructure in place to record or protest the wholesale conversion of braceros into green card laborers.

 **“The Latest Form of Cheap Labor:” Making Pseudo-Guest Workers 1960-1962**

 There were sleeping bodies around the US Embassy again. Under-Secretary of Foreign Affairs Jose Gorostiza saw them every morning. For months, *campesinos* from the across the countryside had flocked to Mexico City and were now sleeping in whatever corner they could find. It was April 1962 and the Mexican official watched as the migrants shuffled into a line outside the Ministry of Foreign Relations and waited to apply for a visa. Gorostiza could not help but notice that lately these lines had become increasingly longer. He guessed it had something to do with US growers adopting crop rotation techniques. He had heard that this production method was supposed to extend the harvest periods which in turn meant that the employers would need more laborers to work on their farms on a year-round basis. But when Gorostiza approached the group of waiting men outside the Embassy, he heard quite a different story. The campesinos were indeed seeking to secure visas to work as farm laborers, but the nature of the employment they described was not permanent. Instead, the men planned to stay in the US long enough to work the seasonal harvests, then they explained, they would travel back to their villages, and rest with their families during the winter months. Gorostiza was troubled by his compatriots' statements because what they described was not exactly legal. He was well aware that before any Mexican could obtain a permanent visa to work in the US, the American Consul first required them to furnish a job offer letter, signed by an employer, as proof that the migrants had secured permanent employment. The US would not allow Mexicans to enter without it, for fear that they would become “public charges.” And yet, there the men were ambling into the Embassy with letters furnishing false promises. Gorostiza suspected subterfuge.
 Soon after his conversations with the *campesinos,* the Under-Secretary invited his US colleagues to a meeting to discuss the growing lines outside the Consular office. After herding the Director of Migrant Labor Affairs, Luis G. Zorrilla, Deputy Chief of Mission, Edward G. Cale, and the Assistant Labor Attaché, Samuel M. Janney, into a room, Gorostiza outlined his suspicions. He believed that US growers were possibly sponsoring the emigration of green card workers “as a method to evade the international agreement [PL 78] controlling the migrant labor program.”[[21]](#footnote-22) The Mexican official then suggested that the United States investigate the matter. Later descriptions of the meeting indicate that the Under-Secretary’s theory did not shock any of the men. In response, Zorilla shared that he had also heard reports that backed up Gorostiza’s suspicion. Elsewhere, he stated, there were claims that growers had been “scared away” from braceros ever since the Department of Labor set higher minimum wage standards for the contract workers. Janney concurred, sharing that he had read an article about a Texas grower association which announced they would no longer use Braceros because of the wage hike. For his part, Cale thanked Gorostiza for bringing up the issue and promised that the Consular section would investigate the matter.[[22]](#footnote-23) The meeting was then adjourned whereby the American Embassy summarized a report of the conversation and forwarded it to officials in the Immigration Service, Department of State, and USDL.
 The problem with this setting is that Gorostiza’s warnings were not the first, nor the last, to be addressed to government officials. Since 1960, labor leaders and social advocacy groups had repeatedly told federal officers that growers were sponsoring braceros and other Mexican campesinos as a method of circumventing the increasing limitations of Public Law 78.[[23]](#footnote-24) Except in the instances when they overtly enabled the transition, like in the IVFA case, the INS and Consular agency ignored public concerns. As a result, between 1960-1963, the rates of Mexican *campesinos* admitted for permanent residency increased at a rapid pace. Though many would come to establish a bona-fide domicile in the United States, this paper is primarily concerned with migrants like Rosario Contreras, introduced at the beginning of this paper, and men like those who Gorostiza spoke to outside the US Embassy. That is to say, migrants who continued to “commute” to their jobs in the US on a daily or seasonal basis. The following sections examine how growers exploited dubious administrative processes to expand the commuter ranks and fill them, in part, with former braceros.It also demonstrates that this transition was enabled by administrative policies.

**The Rule of 25 & Boot-Legged Braceros:**

 To understand how growers were able to secure so much green card labor in such a short expanse of time, it is necessary to delve into the administrative particularities of immigration law. As any history book or lawyer would tell us, prospective immigrants could not enter the US to procure employment if the Secretary of Labor certified that there were already workers in the US willing to fill their prospective job or if the alien’s admission would adversely affect the wages and working conditions of domestic workers. But what is often less examined, if mentioned at all, is that not *every* alien had to pass the USDL’s certification. In fact, soon after this rule, Section 212 (a) (14), was adopted into the national statutes, the USDL and Consular office, devised a system which would allow them to expedite the certification process. The consul would notify the Secretary and seek his approval only if an employer sought to sponsor twenty-five or more foreign workers at a time. The arrangement, known as the Rule of 25, was not stipulated in the McCarran Walter Act, rather it was an informal arrangement between the USDL and Consular agency to circumvent visa backlogs.[[24]](#footnote-25)
 While the Rule of 25 was effective, so far as reducing consular delays was concerned, it was less capable at protecting domestic labor markets from employer exploitation. See the problem was that the rule was governed by administrative and discretionary customs. Thus, the twenty-five model was open to interpretation. Some consuls believed they had to inform the USDL if twenty-five or more workers were requested *in a single order*. Others held a more rigid approach, maintaining that certification was needed if twenty-five or more workers were requested by one employer "no matter how many orders and what length of time were used in achieving this number."[[25]](#footnote-26) Still others believed they had to contact the Department of Labor only if a grower had requested twenty-five or more workers within the last twelve months. It did not take long for employers, grower associations, and labor contractors to realize that they could usually obtain as many workers as they wanted so long as each request did not surpass twenty-five.[[26]](#footnote-27)
 In April 1962, Assistant to the Secretary of Labor, Jerry Holleman, was among the first federal officials to try and investigate just how many agricultural workers were being granted permanent visas.[[27]](#footnote-28) For years, labor organizers had voiced their concerns about the informal “twenty-five” agreement. The claims had been more or less ignored until 1961 when Holleman, the former president of the Texas State Federation of Labor, assumed a high administrative position in the USDL. His ascension was precisely the boon labor needed given that Holleman had been raising alarms about the commuter program since 1955.[[28]](#footnote-29) Now in 1962, he commissioned the first ever examination of the Rule of 25 and its effect on the agricultural labor market. He instructed the consular office to record the total number of employers who issued work orders of 5, 15, or 25 or more agricultural workers in the month of April 1962.[[29]](#footnote-30) The results, listed below, demonstrated that the bulk of employers were indeed requesting less than 25 campesinos at a time, presumably to avoid the certification process.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 5 or Over: | 15 or Over: | 25 or Over: |
| Consular Office: | No. of Employers: | No. of Workers: | No. of Employers: | No. of Workers: | No. of Employers: | No. of Workers: |
| Mexico City: | 58 | 132 | 15 | 59 | 15 | 45 |
| Guadalajara: | 17 | 102 | 4 | 29 | 0 | 0 |
| Monterrey: | 12 | 50 | 2 | 35 | 0 | 0 |
| Ciudad Juarez: | 8 | 22 | 0 | 0 | 1 | 21 |
| Nogales: | 8 | 13 | 6 | 13 | 2 | 8 |
| Merida: | 1 | 5 | 0 | 0 | 0 | 0 |
| Tijuana: | 7 | 44 | 0 | 0 | 0 | 0 |
| Total: | **111** | **368** | **27** | **136** | **18** | **74** |

Table Work Offers

The April study was the first of its kind and it allowed the USDL to obtain a sense of how many “permanent” farm workers were entering the country without the Department’s review or explicit approval. But as the first, the study was accompanied by methodological constraints. For one thing, the data did not account for employers who submitted orders of four campesinos or less. Meaning that a grower could very well have sponsored twenty-five or more workers, but had avoided detection, even during the April study, because he requested one to four at a time. Then there were temporal factors to consider. In their report, the Embassy noted, that April was one of the worst times to commission a study of this scope. During the Easter months, consuls experienced a rush of non-immigrant visa applications, such as tourist or shopping visas, as a result the agency would reduce the number of immigrant visas each consul would process. By extension, the number of “walk-in” appointments was also restricted. In truth, they summarized, “the April figures sharply understate the true magnitude of the numbers of farm workers applying for immigrant visas."[[30]](#footnote-31) Even so, April of 1962 was the earliest that a study of this caliber could be conducted since only one consular post had complete records that stretched further back than April 1.[[31]](#footnote-32)
 The spring study made it clear that the USDL needed to conducted an even broader and more detailed investigation of the green card labor situation. To this end, they commissioned researcher, Lloyd Gallardo to investigate the issue. Gallardo spent a portion of 1962 in the field interviewing Californian growers, labor contractors, and state officials. What he discovered corroborated much of the speculation Henry Anderson voiced in 1960. First, Gallardo demonstrated that the Rule of 25’s inefficiencies ran deeper than even the April study revealed. For example, after Consular agencies began to maintain complete records of employer requests, they still failed to share data with one another. As such, growers figured they could hedge their bets by sending job offer letters to multiple consulates.[[32]](#footnote-33) Hypothetically, this meant that grower X could send job offers sponsoring one to twenty-four workers to all seven of the consular offices and be approved for 7-168 workers without ever rousing the USDL’s suspicion. Gallardo uncovered other instances of even greater subterfuge. One enterprise readily admitted that it had sponsored more than twenty-five workers every year for the last three years, by using three different corporate titles.[[33]](#footnote-34) That of course, was the other problem, without the Department of Labor’s involvement, the Consular office did not have a systematic way of ensuring that the job offers were even coming from real employers.
 Grower Associations also made use of the Rule of 25. They instructed each of their grower-members to issue job offers of twenty-four or less to the Consular agency.[[34]](#footnote-35) Once acquired, the Association would distribute the workers among the growers based on their harvest and strikebreaking needs.If we do the math, this would mean that hypothetically an association comprised of fifty grower-members could secure visas for upward to 8,400 braceros in one go if they sent twenty-four jobs offers to all seven of the visa distributing Consular offices. The Rule of 25 and subterfuge aside, the certification process was still encumbered by everyday bureaucratic failings Gallardo reported. One grower told him that he had sponsored 300-400 men, even after the USDL issued a certification against him, and as of the time of his interview with Gallardo, he was in the process of sponsoring more farmworkers.[[35]](#footnote-36)

**Not-So-Permanent Visas:**

 Then there was the very nature of the work offered to consider. To be admitted into the US, aliens had to demonstrate proof that they had secured permanent employment and thus would not become a public charge. But as Gorostiza discovered that spring day outside of the Embassy, many of the *campesinos* were seeking permanent visas for the sole purpose of working seasonal harvests. They did not intend to establish a bona-fide residence in the United States. As such, they would come to form what beleaguered unions termed “seasonal commuters.”[[36]](#footnote-37)
 The problem with this new class of worker is that immigration law cast them as political, social, and territorial foreigners even as it gave them the right to enter and work in the US. While commuters had the right to permanently reside in the United States, the INS and US Consul used qualitative measures to prevent their families from also immigrating. Consular agents often denied family visa applications on the basis that agricultural workers had too many dependents and did not earn enough to provide for them all. As such, women and children were often excluded from entering the country because government officers presumed that they would become public charges.[[37]](#footnote-38) In this way, administrative policy cast the agricultural family as a site of immobility. The cruel irony is that it was the very Consul which lent its stamp of approval when growers proposed to pay migrants a $1.00 an hour.[[38]](#footnote-39) Notedly, the rate was below the $1.25 AWOC demanded during the Imperial Valley strike.[[39]](#footnote-40)

In addition to affecting the social and economic lives of commuter families, this qualitative restriction also shaped US agricultural labor markets. As opposition against the Bracero Program grew in the early 1960’s, the USDL began to stringently enforce, arguably for the first time, Public Law 78’s regulations. Agents inspected bracero barracks and cut grower access to contract labor if the housing they supplied their workers did not meet a habitable standard. Before approving employer requests for braceros, the USDL required growers to first make “every reasonable effort” to hire domestic workers.[[40]](#footnote-41) As outlined earlier in the paper, the Department of Labor also routinely ordered the Immigration Service to remove braceros from struck fields and later raised the minimum wage growers were required to pay contract workers. Together, these reforms undermined the features employers most relished about the Bracero Program – mainly its cheapness and predictability. This is why growers spent the early years of the 1960’s sponsoring bracero’s permanent visas.
 Seasonal green card workers were precisely the right kind of “free” labor growers needed to ensure the harvest of their crops as this labor was unencumbered by the bureaucratic regulation and financial costs associated with the Bracero Program. Because they were legally considered permanent residents, seasonal green card workers could move through picket lines with ease. Additionally, there were no international agreements in place to obligate growers to supply commuters with decent housing, food, or transportation. And while yes, workers’ green cards granted them the ability to leave growers if they found the conditions of their employment less than desirable, the benefits of commuter labor still outweighed its risks. The advantages to grower derived from the fact that qualitative measures generally restricted commuters’ families from entering the country. Since seasonal workers maintained their principal domicile in Mexico where the cost of living was lower, growers found that commuter workers were willing to accept lower wages than those actually permanently residing in the US.
 In addition, separating green carders from their dependents made it easier for growers to transition from bracero to commuter labor. By 1962, unions and state officials regularly began to ask growers to rebuild family housing units on labor camp property.[[41]](#footnote-42) Doing so, the believed, would stabilize the domestic labor force. This was a costly proposal which growers circumvented by hiring seasonal green carders who, for their purposes, were functionally single males. As a result, commuters found themselves housed in the barracks they had likely occupied before as braceros except now the conditions of the barracks were not subject to quality standards. In this way, the Green Card Commuter Program preserved some of PL 78’s most exploitative features while retaining none of its regulations or safeguards. Packing their work force with seasonal green carders allowed the growers to circumvent USDL regulations in other ways. Commuters’ permanent resident status meant that they were legally and statistically considered “domestic workers,” thus growers were able to argue that they had indeed made reasonable efforts to hire domestic labor when they submitted orders for braceros.

**Regulating the Visa Distribution Process:**

By 1963, it was clear that growers’ efforts to circumvent PL 78 through the whole sale sponsorship of “permanent” visas, was having a wide range impact. The Consular office reported that every one of its visa distributing branches was facing a back log of applicants. Aspiring immigrants now had to wait several years for their cases to be processed. The former Labor Attache of the Embassy attributed the increased demand to growers who began to sponsor agricultural workers in vast numbers as the Bracero Program was reformed. [[42]](#footnote-43)

|  |  |  |
| --- | --- | --- |
| Year: | Immigration Visas Issued: | No on Waiting List: |
| 1959 | 25,023 | Insignificant – no record |
| 1960 | 32,795 | 29,346 |
| 1961 | 49,204 | 62,475 |
| 1962 | 54,952 | 140,111 |

Table : Number of Visas Distributed to Mexicans & Waiting List Numbers[[43]](#footnote-44)

Elsewhere, unions and advocacy groups were also protesting the immigration of green card holders. One group, headed by the not-yet-famous organizer Cesar Chavez, wrote letters to the Deputy-Director of the Farm Placement Service, asking him for more information about the increasing numbers of green card holders the group was seeing enter the Central Valley.[[44]](#footnote-45) From his new position in the American Friends Service Committee, Henry Anderson continued to repeat the claims he had first made in 1960. At the same time, the Texas AFL-CIO had filed a mandamus suit against the INS wherein it challenged the legality of the commuter program and sought to have it overturned. The threat made the INS and Department of State open, if still reluctant, to reforming the program in some capacity.
That is how on July 2nd, 1963, the Department of Labor managed to pass new certification procedures which tightened migrant admissibility standards. The new rule effectively wrestled control away from consular agents by retiring the Rule of 25. In its place, a new system was created, one which established that *all* job offers had to be endorsed by the Department of Labor before any given alien could be admitted. Under the new procedure, Bureau of Employment Service (BES) offices would have to determine whether the admission of a foreign workers "adversely affected" the wages and working conditions of domestics already employed in the region.[[45]](#footnote-46) In addition, the Department established new protocols which allowed consular and BES agents to reduce the flow of counterfeit employment letters.[[46]](#footnote-47) The new certification rule was so successful, Congress decided to formally adopt it into the Immigration and Nationality Act of 1965 where it became the law.
 While the new certification process managed to curb the admission of low skilled laborers, it was still a measured approach. While the regulation ameliorated some of the loopholes in the law, it fell short of the reforms unions and farm labor advocates most desired. The Department made no effort to modify its statistical definitions and continued to include green card commuters in their domestic workforce counts. Nor did the USDL attempt to categorize them in more descriptive terms, such as domiciled residents, seasonal-, or daily commuters.
 The reality was that the USDL’s measured approach helped administrators execute their official mandate– overseeing labor-management relations. Despite the USDL’s best intentions, they soon encountered the problem which had plagued the INS for years; growers would only participate in the Bracero Program if it was convenient for them. At the earliest sign of stringent expectations, employers would turn to undocumented workers. If the USDL was going to bind the Bracero program in red tape, it had to devise some system for enticing grower cooperation, or if all else failed, a mechanism for disciplining defectors. The Green Card system offered a solution to this conundrum. In the years following the USDL’s 1963 regulation, administrators repeatedly cautioned growers that regional employment offices would not approve any requests for permanent resident aliens unless employers adhered to the Department of Labor’s requirements, such as making reasonable efforts to hire from the domestic population.
 From 1963-1965, growers tried their best to secure green card commuters. No longer able to rely on the predictable streams of bracero labor, they expanded their labor recruitment networks; a trend which was bolstered in part by USDL requirements. Their efforts sent them to Texas, seeking both green card commuters and bona-fide Tejanos who were paid a fraction of their Californian counterparts and were thought less likely to organize.[[47]](#footnote-48) They also built new single-male dormitories to house incoming commuters.[[48]](#footnote-49) These inter-state and international recruitment networks would become especially important after 1965 when farm workers across the Southwest went on strike.

1. Ruben Salazar, “'Commuting' Mexican Farm Workers Stir US Dispute," *Los Angeles Times,* November 25, 1962. [↑](#footnote-ref-2)
2. United States. *Report of the Select Commission on Western Hemisphere Immigration.* Commonly Known as: Scammon Report iv, Washington, D.C.: U.S. G.P.O., 1968. p. 101-109. [↑](#footnote-ref-3)
3. This history is covered in my first dissertation chapter, I can answer questions about this history during the Q & A. [↑](#footnote-ref-4)
4. Cecilia Menjívar, and Daniel Kanstroom. *Constructing Immigrant ’Illegality’: Critiques, Experiences, and Responses*. New York: Cambridge University Press, 2014. [↑](#footnote-ref-5)
5. Ibid. [↑](#footnote-ref-6)
6. Kelly Lytle Hernandez, *Migra! A History of the U.S. Border Patrol*. American Crossroads, v. 29. Berkeley: University of California Press, 2010. Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Politics and Society in Twentieth-Century America. Princeton, N.J: Princeton University Press, 2004. [↑](#footnote-ref-7)
7. *Report of the Select Commission on Western Hemisphere Immigration,* p. 102 [↑](#footnote-ref-8)
8. For more literature on the Bracero Program see: Mireya Loza. *Defiant Braceros: How Migrant Workers Fought for Racial, Sexual, and Political Freedom*. Chapel Hill: The University of North Carolina Press, 2016. Deborah Cohen. *Braceros: Migrant Citizens and Transnational Subjects in the Postwar United States and Mexico*. Chapel Hill: University of North Carolina Press, 2011. Kitty Calavita. *Inside the State: The Bracero Program, Illegal Immigrants, and the INS*. New York: Routledge, 1992. [↑](#footnote-ref-9)
9. Don Mitchell, *They Saved the Crops : Labor, Landscape, and the Struggle over Industrial Farming in Bracero-Era California*. Athens: University of Georgia Press, 2012, pages 364. [↑](#footnote-ref-10)
10. Ibid. p. 347. [↑](#footnote-ref-11)
11. Consul Tijuana to The Department of State, September 20, 1960, in CO 214K-P “Agricultural Laborers Mexican Part II,” NARA 1, RG 85, Entry UD-05W8, Box 6. See also: Memorandum of Telephone Call Between T. H. Armstrong, Special Projects Officers, San Pedro to J. W. Bowser, Deputy Commissioner, Special Projects, October 25, 1960; Amembassy Mexico to The Department of State, September 14th, 1960; all in CO 214K-P “Agricultural Laborers Mexican Part II,” NARA 1, RG 85, Entry UD-05W8, Box 6. [↑](#footnote-ref-12)
12. Consul Tijuana to The Department of State, September 20, 1960; in CO 214K-P “Agricultural Laborers Mexican Part II,” NARA 1, RG 85, Entry UD-05W8, Box 6. [↑](#footnote-ref-13)
13. *They Saved the Crops,* p. 317-320. [↑](#footnote-ref-14)
14. Inter-Agency Meeting Rg: Requested Issuance of Immigration Visas to Braceros, October 26, 1960 in CO 214K-P “Agricultural Laborers Mexican Part II,” NARA 1, RG 85, Entry UD-05W8, Box 6. [↑](#footnote-ref-15)
15. What Goodwin failed to consider is how the combination of harsh working conditions and *low wages* had pushed the domestic population out of the Imperial Vallery. [↑](#footnote-ref-16)
16. Robert C. Goodwin to Edmund Dorss, Deputy Administrator Bureau of Security and Consular Affairs, November 2, 1960 in CO 214K-P “Agricultural Laborers Mexican Part II,” NARA 1, RG 85, Entry UD-05W8, Box 6. [↑](#footnote-ref-17)
17. Anderson to Galarza, September 3, 1958; Anderson to Galarza, September 8, 1958, both in Ernesto Galarza Papers, Accession Number MO224 Box 17, File 3; Department of Special Collections and University Archives, Stanford University Libraries, Stanford, California. [↑](#footnote-ref-18)
18. Henry Anderson to Norman Smith, November 23, 1960; Accession Number 221 Agricultural Workers Organizing Committee Series I AWOC Directors' Files, 1959-1966, Subseries A Directors' Files: Norman Smith Files, 1959-1961, Box 3, Folder 19 in Walter P. Reuther Library Special Collections, Detroit, Michigan. Referred to as “AWOC Collection” from here on out. See also W. Simcich, Immigration Service Interview, Re: Blue Card Employment by November 4, Box 2, Folder 9, in AWOC Collection. [↑](#footnote-ref-19)
19. Ibid. Emphasis my own. [↑](#footnote-ref-20)
20. J. Craig Jenkins, *The Politics of Insurgency: The Farm Worker Movement in the 1960s,* New York: Columbia University Press, 1985, p. 114-130. [↑](#footnote-ref-21)
21. “American Embassy Memorandum of Conversation, Rg: Large Number of Campesinos Applying for US Visas...” May 9, 1962; in 211 Issuance of US Visas – Jan. – June, 1962,” NARA 2, RG: 59, Records Relating to Mexico; 1949-1975, Entry #P-2, Container 11. [↑](#footnote-ref-22)
22. Ibid. [↑](#footnote-ref-23)
23. For examples of unions, social advocacy groups, and others raising their concerns about the use of permanent visas see: Thomas Pitts to Arthur Goldberg, April 4, 1960 in AWOC Collection Box 6, Folder 8; Gordon F. Davidson to District Director, June 27, 1961 in CO 214 K-P “Agricultural Laborers Mexicans Part 4,” NARA Record Group 85, Entry UD-05W8, Box 6. James F. Scott to Albert D. Misler, June 22, 1961 in "Subject Files Relating to Foreign Agricultural Laborers and Migratory Workers, 1933-1970," RG 174, Entry # A1-27, Container 13. [↑](#footnote-ref-24)
24. Charles Donahue, Solicitor of Labor, to Jerry R. Holleman, Assistant Secretary of Labor, July 17, 1961 in Record Group 174, General Records of the Department of Labor, Officer of the Assistant Secretary for Employment and Manpower, Records of the Assistant Secretary for Employment and Manpower, Jerry R. Holleman, 1961-1962, NARA 2, Box 6. [↑](#footnote-ref-25)
25. Lloyd Gallardo Preliminary Report, July 18, 1962, Victor P. Salandini, MO 246, Box 9, Folder 4 Department of Special Collections and University Archives, Stanford University Libraries, Stanford, California. See also, Lloyd Gallardo, 'The "Green Carder," *Employment Security Review,* January 1963. [↑](#footnote-ref-26)
26. Ibid. [↑](#footnote-ref-27)
27. Jerry Holleman to Michael Ciepliniski, March 28, 1962 in “Immigration Service Matters,” NARA #2, RG 174, Entry# A1-27, Box 11. [↑](#footnote-ref-28)
28. I cover this history in chapter one of my dissertation. [↑](#footnote-ref-29)
29. Jerry Holleman to Michael Ciepliniski, March 28, 1962 in “Immigration Service Matters” NARA College Park, Rg 1744, Entry A1-27, Box 11. [↑](#footnote-ref-30)
30. AmEmbassy Mexico, D. F. to Department of State, June 5th, 1962 in “Immigration Service Matters” NARA College Park, RG 174, Entry A1-27, Box 11. [↑](#footnote-ref-31)
31. Ibid. [↑](#footnote-ref-32)
32. The Embassy’s report did indicate that this problem was occurring, but it did not phrase it in explicit terms, nor did they draw the same conclusions that Gallardo did. [↑](#footnote-ref-33)
33. Lloyd Gallardo, "Summary of Report on Immigration From Mexico," December 1962, in "Subject Files Relating to Foreign Agricultural Laborers and Migratory Workers, 1933-1970," RG 174, Entry # A1-27, Container 13. See also Lloyd Gallardo Preliminary Report, July 18, 1962. [↑](#footnote-ref-34)
34. Ibid, 53-55 [↑](#footnote-ref-35)
35. Ibid. [↑](#footnote-ref-36)
36. United States. *Employment of “Green Card” Aliens during Labor Disputes: Hearings before the Special Subcommittee on Labor of the Committee on Education and Labor, House of Representatives, Ninety-First Congress, First Session, on H.R. 12667, a Bill to Amend the National Labor Relations Act, as Amended, so as to Make It an Unfair Labor Practice to Employ Aliens Whose Principal Dwelling Places Are in a Foreign Country during a Labor Dispute.* Washington: U.S. Govt. Print. Off, 1969. [↑](#footnote-ref-37)
37. United States. Select Commission on Western Hemisphere Immigration. *Impact of commuter aliens along the Mexican and Canadian borders: hearings.* Washington, 1968. 46-50 [↑](#footnote-ref-38)
38. Salvador Diaz Corona, Attorney at Law, February 8, 1961 in AWOC Collection, Box 2, Folder 9. [↑](#footnote-ref-39)
39. Harvey Richards, *Uno Veintecinco* 1962, 15 min. Dan Swinton, "Bracero Pawn in Labor Fight," *Los Angeles Times,* January 11, 1961. Dan Swinton, "Many Workers Find Bracero Is Their Enemy," *Los Angeles Mirror*, January 12, 1961. [↑](#footnote-ref-40)
40. On agricultural housing: Eric Brazil, "Growers, State Air Opposing Views on Ag Labor Housing," The Californian, March 28, 1966, p. 11; "Housing for Agricultural Workers:..." Assembly Interim Committee on Agriculture, December 2, 1965; California's farm labor problems : report of the Senate Fact Finding Committee on Labor and Welfare, 1961-1963; “The migratory farm labor problem in the United States; 1966 report, together with individual views,” 1966. Eric Brazil, "Growers, State Air Opposing Views on Ag Labor Housing," The Californian, March 28, 1966, p. 11: "Braceros May Leave 3 to 5 Year Farm Gap," The Fresno Bee, February 27, 1964, p. 34. [↑](#footnote-ref-41)
41. Glenn E, Garret and United States Department of Labor, *Mexican Farm Labor Program Consultants Report, October, 1959,*Washington, 1959. [↑](#footnote-ref-42)
42. Terrence G. Leonhardy, Consul General, AmEmbassy Mexico to Department of State, January 23, 1963 in CO 214 K-P Agricultural Laborers Mexicans Part 4, NARA Record Group 85, Entry UD-05W8, Box 6. [↑](#footnote-ref-43)
43. Ibid. [↑](#footnote-ref-44)
44. Don Larin, Deputy Director-Farm Placement, to C. Chavez, Director Farm Workers Association, July 8, 1964, in Accession Number 221, National Farm Workers Association Collection, Series III, General topic files, 1960-1967, Box 7, Folder 3 in Walter Reuther Library, Special Collections, Detroit, Michigan. [↑](#footnote-ref-45)
45. "Proposed Replacement for Braceros," *California Farm Labor Reporter*, p.2 July 1963 in AWOC Collection, Box 14, Folder 2; California Farm Reporter; "Rules Changes For Mexican 'Green Cards,' *Ventura County Star-Free Press,* July 2, 1963, p. 12 [↑](#footnote-ref-46)
46. Memorandum of Conversation, Rg: Implementation of Mexican Immigration Procedure, September 24, 1963 in V General August-December, NARA 2, RG 59, Entry# P-2, Container 14. [↑](#footnote-ref-47)
47. "Grower Concern About Farm Labor to Harvest This Year's Crop Mounts," *The Modesto Bee*, September 4, 1964, p. 7. Pate Keele, "Bracero Alternatives Suggested," November 22, 1963; "Ag workers plentiful, if pay is right" *Stockton Daily Evening Record,* January 9, 1965: "Farms Get Domestics," *Ventura County Stare-Free Press,* December 30, 1964: "State officials at Odds with Growers on Farm Workers," *Redlands Daily Facts,* January 5th, 1965, p. 2; Larry Adams, "Farm Labor Showdown is Seen in 10 days," *The Fresno Bee*, January 20, 1965, p. 10. [↑](#footnote-ref-48)
48. Eric Brazil, "Growers, State Air Opposing Views on Ag Labor Housing," *The Californian*, March 28, 1966, p. 11: "Holtville Growers Import Guamanians To Help Avoid Harvest Labor Shortages," *Imperial Valley Weekly,* December 16, 1965. [↑](#footnote-ref-49)