

2-24-2019

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Golden Gate University Law Review

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## Recommended Citation

Golden Gate University Law Review, "California Wine Industry Feels the Effect of Trump" (2019). *GGU Law Review Blog*. 58.  
[https://digitalcommons.law.ggu.edu/ggu\\_law\\_review\\_blog/58](https://digitalcommons.law.ggu.edu/ggu_law_review_blog/58)

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# California Wine Industry Feels the Effect of Trump

PUBLISHED ON February 24, 2019 February 25, 2019 by achavers09



*A worker picks grapes in a vineyard at a Napa Valley winery. Photo by Robert Galbraith/Reuters*

“When Mexico sends its people, they’re not sending their best. They’re sending people that have lots of problems, and they’re bringing those problems with us. They’re bringing drugs. They’re bringing crime. They’re rapists ([https://www.washingtonpost.com/opinions/to-build-the-wall-trump-might-make-thousands-of-americans-suffer/2019/01/19/fd39abe6-150e-11e9-b6ad-9cfd62dbb0a8\\_story.html?utm\\_term=.f799180ca962](https://www.washingtonpost.com/opinions/to-build-the-wall-trump-might-make-thousands-of-americans-suffer/2019/01/19/fd39abe6-150e-11e9-b6ad-9cfd62dbb0a8_story.html?utm_term=.f799180ca962)).” This was much of the tone about immigrants during Donald Trump’s speeches on his campaign trail. Since President Trump took office, it seems that immigration has propelled to the forefront of political debates and water cooler talk. Most of the headlines regarding immigration that have dominated our screens have been about children being separated (<https://www.cnn.com/2018/12/06/politics/immigrant-family-separations-children-border-undocumented/index.html>) at the border, Trump’s disapproval of sanctuary (<https://www.theguardian.com/us-news/2018/may/16/california-sanctuary-city-laws-donald-trump-attack>), cities, or Trump’s incessant demand ([https://www.washingtonpost.com/opinions/to-build-the-wall-trump-might-make-thousands-of-americans-suffer/2019/01/19/fd39abe6-150e-11e9-b6ad-9cfd62dbb0a8\\_story.html?utm\\_term=.f799180ca962](https://www.washingtonpost.com/opinions/to-build-the-wall-trump-might-make-thousands-of-americans-suffer/2019/01/19/fd39abe6-150e-11e9-b6ad-9cfd62dbb0a8_story.html?utm_term=.f799180ca962)) to build a wall along the southern border. Trump’s anti-immigrant policies and rhetoric have also affected an area less discussed by the media, an industry gravely threatened by Trump’s harsh dialogue: the California wine industry.

In 1976, California vineyards rose to international stardom after two Napa Valley wines received top honors at the Judgment of Paris (<https://www.npr.org/sections/thesalt/2016/05/24/479163882/the-judgment-of-paris-the-blind-taste-test-that-decanted-the-wine-world>). Since then, the United States now consumes more wine by volume than any other country ([https://www.wineinstitute.org/files/World\\_Wine\\_Consumption\\_by\\_Country\\_2015.pdf](https://www.wineinstitute.org/files/World_Wine_Consumption_by_Country_2015.pdf)). California generates \$34 billion (<https://www.wineinstitute.org/files/Wine%20Institute%20Economic%20Impact%20Highlights%202016.pdf>) of the United States' roughly \$60 billion domestic wine sales, with Napa and Sonoma counties producing most of the state's high-end grapes with their 1,000 plus wineries. In addition, California is the world's 4th leading (<https://www.wineinstitute.org/files/Wine%20Institute%20Economic%20Impact%20Highlights%202016.pdf>) wine producer trailing behind France, Italy and Spain.

The agricultural industry in the United States has been on a steady decline since 1950 (<https://www.ers.usda.gov/topics/farm-economy/farm-labor/>). In the past, farming was considered a family business that employed more than 10 million workers (<https://www.ers.usda.gov/topics/farm-economy/farm-labor/>), 77 percent of whom were classified as "family." As of 2012, 3 million worked on farms, and about half were undocumented (<https://www.nass.usda.gov/Publications/Highlights/index.php>). Similar to the rest of California's agriculture, the wine industry heavily relies on undocumented workers for its labor. According to a federal survey ([https://doleta.gov/naws/pages/research/docs/NAWS\\_Research\\_Report\\_12.pdf](https://doleta.gov/naws/pages/research/docs/NAWS_Research_Report_12.pdf)), 9 out of 10 California workers were born abroad, mostly in Mexico, and half are here without citizenship or legal work permits.

## USCIS Policy Change

While President Trump is certainly outspoken about his "zero tolerance" (<https://www.hrw.org/news/2018/08/16/qa-trump-administrations-zero-tolerance-immigration-policy>)" policy for illegal immigration, recent policy changes have quietly gone under the radar to make it more difficult for those trying to legally enter the United States. Let me explain:

On July 13, 2018, United States Citizenship and Immigration Services (USCIS) issued a new policy memo ([https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/AFM\\_10\\_Standards\\_for\\_RFEs\\_and\\_NOIDs\\_FINAL2.pdf](https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/AFM_10_Standards_for_RFEs_and_NOIDs_FINAL2.pdf)) that has the potential to drastically alter the government's decision-making process on most immigration applications by limiting immigration officers discretion. The memo affects two types of notifications commonly sent to applicants for immigration benefits: Request for Evidence (RFE) and Notice of Intent to Deny (NOID).



*Enter a caption* Grape pickers in Sonoma County pause in the middle of a busy harvest day.  
Photo by Mark Murrman.

RFEs are sent when an application is missing a piece of supporting evidence, the wrong evidence is sent, or there is insufficient evidence. NOIDs are sent when an applicant has provided sufficient initial evidence to satisfy the application requirements but, for some other reason, the USCIS officer does not believe that the applicant has established eligibility or that the case should be approved (<https://www.nolo.com/legal-updates/new-uscis-policy-gives-officers-full-discretion-to-deny-immigration-applications-without-first-sending-warning-rfe-or-noid-to-applicant.html>). The rules have always given adjudicators (the USCIS officer reviewing the application) the discretion to decide whether it is appropriate to deny a benefits application outright, or to instead issue an RFE or NOID to give the applicant an opportunity to fix the problem. What has changed is USCIS' instructions to adjudicators about *how to exercise* that discretion.

In the past, adjudicators were encouraged to issue an RFE or NOID almost every time there was an issue with an application package, giving applicants a chance to fix any problems. Adjudicators were permitted to deny applications immediately *only* when there was no possibility that the issue could be cured through additional evidence (<https://www.nolo.com/legal-updates/new-uscis-policy-gives-officers-full-discretion-to-deny-immigration-applications-without-first-sending-warning-rfe-or-noid-to-applicant.html>). The new policy gives adjudicators the authority to deny applications at their discretion *without* first issuing an RFE or NOID. In other words, this new guidance allows adjudicators to deny any application that contains even the slightest of error.

### **Why the change?**

The change is intended to streamline (<https://www.nolo.com/legal-updates/new-uscis-policy-gives-officers-full-discretion-to-deny-immigration-applications-without-first-sending-warning-rfe-or-noid-to-applicant.html>) the USCIS decision-making process, discourage frivolous or incomplete filings, and encourage applicants to be diligent in collecting and submitting required evidence. In the interest of



expediency, USCIS officers who used to issue REFs or NOIDs are now urged to decide a case based on the information received, instead of getting back in touch with applicants to request missing information.

However, immigration advocates are worried that this will lead to an increase in the abuse of discretion ([https://www.salon.com/2018/09/21/authorities-can-deny-visa-green-card-applications-without-giving-applicants-chance-to-fix-errors\\_partner/](https://www.salon.com/2018/09/21/authorities-can-deny-visa-green-card-applications-without-giving-applicants-chance-to-fix-errors_partner/)) by individual USCIS officers. Without the routine notices, applicants will no longer have the opportunity to intervene before a decision is made, potentially adding months or years of extra paperwork and thousands of dollars in fees to the already lengthy process. For most immigration applications, the USCIS estimates that it takes anywhere from six months to two years to process applications (<https://egov.uscis.gov/processing-times/>). However, there is an understanding in the industry that processing times typically take much longer. Longer wait times typically increase costs as well (<https://www.americanimmigrationcouncil.org/research/uscis-data-application-and-petition-processing-times>).



*Harvesting of red-grape varieties in Napa Valley, CA. Photo taken by Peter Menzel*<http://www.menzelphoto.com> (<http://www.menzelphoto.com>).

## Impact on Wine Industry

The California wine industry needs hundreds of migrant workers to get grapes off the vine and into the wineries come harvest season. President Trump has called for a crackdown on immigrants because they “compete directly against vulnerable American workers (<https://www.politico.com/story/2016/08/donald-trump-immigration-address-transcript-227614>).” For those in the wine industry, this claim is laughable. Ironically, President Trump’s son, Eric Trump,

applied to bring in dozens of immigrant workers. (<http://fortune.com/2017/03/21/trump-virginia-winery-foreign-workers/>). for his Trump Vineyard Estates in Virginia because he couldn't find Americans to apply for the job.

Grape picking is hard, grueling work and “nobody (<https://www.motherjones.com/food/2018/07/californias-vineyard-workers-wine-labor-shortage-guestworker-visas-immigration-crackdown/>). wants these jobs.” A 2014 American Farm Bureau ([https://www.fb.org/files/AFBF\\_LaborStudy\\_Feb2014.pdf](https://www.fb.org/files/AFBF_LaborStudy_Feb2014.pdf)) study shows that unemployed Americans regularly shun farm work, even preferring to stay unemployed. Additionally, 76 percent (<http://www.people-press.org/2016/08/25/on-immigration-policy-partisan-differences-but-also-some-common-ground/>) of people believe undocumented immigrants are as honest and hardworking as U.S. citizens, while 71 percent (<http://www.people-press.org/2016/08/25/on-immigration-policy-partisan-differences-but-also-some-common-ground/>) said they mostly fill jobs that Americans aren't willing to do.

The new USCIS policy change has the potential to make a bad problem, worse. Most wineries in California are family businesses, many with narrow profit margins (<https://newfoodeconomy.org/help-wanted-vineyards/>). Labor shortages were a concern even before President Trump took office. Since 2007 (<http://www.pewhispanic.org/2015/11/19/more-mexicans-leaving-than-coming-to-the-u-s/>), vineyard owners have seen a decline in net migration from Mexico. Since Trump took office, the messages sent to undocumented workers has been unequivocal. “If you're in this country illegally, and you committed a crime by entering this country, you should be uncomfortable, you should look over your shoulder, and you need to be worried,” the director of ICE (<https://newfoodeconomy.org/help-wanted-vineyards/>) recently said in a Congressional hearing. While most immigrant workers who are without papers take extra precautions so they won't be picked up by federal authorities, others decide on the ultimate avoidance strategy – going home. Of the motivations for self-deportation, many find the American environment of hostility toward Hispanic immigrants just too stressful (<https://newfoodeconomy.org/help-wanted-vineyards/>).

It's not just the workers that are panicked. Winemakers are anxious for their businesses. Unlike other kinds of agricultural work, vineyard labor is highly specialized, requiring skills that come with years of experience (<https://newfoodeconomy.org/help-wanted-vineyards/>). Much of vineyard work requires human hands that machines simply cannot perform. For example, “canopy management (<https://newfoodeconomy.org/help-wanted-vineyards/>)” is a process where workers remove leaves to allow the sun to ripen the grapes but not so many as to expose the grapes of sunburn. This process calls for the judgment of experienced workers that are becoming increasingly harder to find.

Trump's immigration crackdown was intended to help U.S. citizens, but for California farmers, it's only worsening (<https://www.latimes.com/projects/la-fi-farms-immigration/>), an already desperate labor shortage. Labor shortages remain a constant concern in the wine industry and this new policy change has the potential to only exacerbate the problem. The next time you raise a glass of Napa County cabernet, toast the vineyard workers who made it possible. They are a scarce resource, and President Trump's immigration policies threaten an already volatile industry.

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