

Farmworker Justice Update: 03/01/18

Rep. Goodlatte's Guestworker Bill Revised in Effort to Gain Agribusiness Support

As noted in previous updates, Rep. Bob Goodlatte (R-VA) is reportedly pushing House leadership for a vote on his anti-immigrant bill, the "Securing America's Future Act," H.R. 4760, which includes the Agricultural Guestworker Act (AGA). The AGA would create an extremely abusive new guestworker program. Some changes were recently made to the AGA in an attempt to garner more support for the bill from agricultural employers. Some of these changes include increasing the length of time agricultural employers will have to come into compliance with mandatory E-verify, extending the program's visa term for temporary and seasonal work from 18 months to 24 months and providing workers a one-year time frame in which to self-deport (the bill previously required workers to self-deport within six months).

A House [whip count conducted two weeks ago](#) showed that the bill still lacks sufficient support to pass the House. As for the agribusiness community, despite the changes made by Rep. Goodlatte, some agricultural employers, including Western Growers and the California Farm Bureau Federation, have stated that [they still do not support the Goodlatte bill](#), partly because it still requires currently undocumented workers to self-deport. The American Farm Bureau Federation, on the other hand, has now endorsed including the Agricultural Guestworker Act in the "Securing America's Future Act." It is important to note that none of the recent changes to the bill address the program's terribly anti-worker provisions, which eliminate needed government oversight and the modest protections in the H-2A agricultural guestworker program, such as the adverse effect wage rate (AEWR), employer-provided housing and transportation reimbursement, among others. Moreover, the AGA provides no path to permanent status or citizenship for the current undocumented agricultural workforce. You can read Farmworker Justice's updated fact sheet on the AGA [here](#).

Concern that H-2A Year-Round Rider Could be included in FY 2018 Appropriations Bill

The current continuing budget resolution expires on March 23, meaning that Congress has until then to agree on a budget for the rest of fiscal year 2018, which ends on September 30. Farmworker Justice is monitoring the budget negotiation process and is particularly concerned about the possibility that budget riders affecting the H-2A program may be included in the broader budget agreement. Specifically, there was a rider included in the House appropriations bill for the Department of Homeland Security (DHS) in July 2017 that sought to expand the H-2A program to year-round agricultural work, [which Farmworker Justice strongly opposes](#). If this amendment is included in the final FY 2018 spending package, it would fundamentally change the scope of the H-2A program, which is currently limited to temporary and seasonal agricultural work. This amendment would mean that year-round agribusiness, including sectors such as mushroom and dairy, could instead turn to the H-2A program for their labor needs and have a perpetual source of captive workers with very limited bargaining ability. The amendment also fails to provide any solution for the undocumented workers who are currently doing much of this important work.

U.S. Supreme Court Rejects Trump Administration Appeal in DACA Case

On February 26, 2018, [the U.S. Supreme Court rejected the Trump Administration's request](#) to entertain an appeal of *DHS v. U.C. Regents*, a case regarding the fate of the Deferred Action for Childhood Arrivals (DACA) program. The decision comes right before March 5, which was the deadline established by the Trump Administration for official termination of the DACA program. In January 2018, a federal district court judge in California had [issued an order](#) in the *Regents* case blocking the DACA program's termination and allowing current DACA recipients to apply to renew their status. The Trump Administration appealed the judge's ruling and took the unusual step of trying to bypass the Ninth Circuit Court of Appeals by petitioning the U.S. Supreme Court to take the case directly. Now that the Supreme Court has declined to review the case, it will be heard by the Court of Appeals (the Supreme Court could still decide to review the case *after* the Court of Appeals makes a decision.)

In the meantime, the current injunction stands, allowing current DACA recipients to apply to [renew their status](#). On February 13, 2018, [a U.S. district court judge in New York](#) issued a similar injunction, which will also remain in place while the judicial process continues to unfold. Yet these recent judicial victories should not distract from the urgency of Congressional action regarding DACA, as this is the only way to provide a permanent solution for Dreamers. After the Senate's failure to reach any agreement on Dreamers during its immigration debate earlier this month, [Senators Flake \(R-AZ\) and Heitkamp \(D-ND\) have proposed a short-term measure](#) to protect Dreamers for a period of three years in exchange for funding for border security for three years.

Haitian and Salvadoran TPS Holders File Lawsuit against Trump Administration

A group of Haitian and Salvadoran recipients of Temporary Protected Status (TPS) have [filed a lawsuit](#) against the Trump Administration arguing that its decision to end the TPS program for these countries was based on racial discrimination. The lawsuit was filed on February 22 in U.S. District Court in Boston by the Lawyers' Committee for Civil Rights and Economic Justice and Centro Presente, a Massachusetts community organization that advocates for TPS beneficiaries. This is the second lawsuit that has been filed regarding TPS this year – the NAACP Legal Defense Fund filed a suit last month arguing that the decision to end TPS for Haiti was discriminatory.

Agricultural Workers Face Labor Violations, including Inhumane Housing Conditions

A New York dairy farmer was [recently issued a cease and desist order by local authorities](#) for housing workers in inhumane conditions. The housing structure, in which four adults and five children lived, was made mostly of particle board, had mold and exposed electrical wiring, and had no hot water or septic service. Most migrant workers have now left the housing and are being aided by community organizations and the Workers Center of Central New York. The Workers Center will also be helping the workers file wage complaints with the state Department of Labor. Similarly, [a farm labor contractor in California](#) was recently ordered to pay \$168,082 in penalties for housing workers in inhumane conditions by the Department of Labor's Wage and

Hour Division. Investigators found that the housing provided by the contractor for 22 workers was overcrowded, only had one shower and sink, was infested with insects and had water that was unsafe for human consumption. As noted in an [op-ed on the New York case](#), as horrific as these conditions were, there are likely many other workers enduring similar conditions who are afraid to seek help due to their immigration status and/or fear of retaliation.

Update on Farmworker Health and Safety

Fine for Pesticide Company Syngenta Significantly Reduced under Trump Administration

The Environmental Protection Agency (EPA) recently [settled claims against pesticide company Syngenta](#) for approximately \$150,000 for a pesticide exposure incident in Hawaii involving chlorpyrifos. The original complaint against the company, filed by the Obama Administration, sought almost \$5 million in civil penalties. The reduced [settlement](#) requires Syngenta to spend at least \$400,000 on a training program on the Worker Protection Standard (WPS) for growers in Hawaii, Guam and the Northern Mariana Islands. The settlement does not include a requirement to provide training sessions for workers, such as those who were injured by the incidents on Syngenta seed farms. A [report](#) released by the Environmental Integrity Project (EIP) found that during the first year of the Trump Administration, federal civil penalties assessed by the EPA against polluters have fallen by about half as compared to the same period during the previous three presidential administrations (Obama, Bush and Clinton).

Senators Offer PRIA Reauthorization If EPA Commits to Upholding Worker Protections

Chlorpyrifos, the pesticide involved in the Syngenta incident described above, is a highly toxic organophosphate that was set to be banned by the EPA during the Obama Administration. However, EPA Administrator Scott Pruitt reversed that decision last year. The EPA is also attempting to roll back two key worker protection rules that had been revised during the Obama Administration – the Worker Protection Standard (WPS) and the Certification of Pesticide Applicators (CPA) rule. In an effort to prevent the Trump Administration from weakening these important protections, Sen. Tom Udall (D-NM) has placed a “hold” on the “Pesticide Registration Enhancement Act of 2017” (PRIA), passed as H.R.1029 in the House. Sen. Udall [recently announced](#) that he would remove his hold on PRIA and reauthorize the legislation for an additional five years if the EPA commits to upholding the worker protection rules and responding to objections filed by various environmental and labor groups regarding its decision to overturn its proposed ban on chlorpyrifos.

Upcoming Event - Congressional Briefing on Telehealth by Farmworker Justice and Partners

[Bristol-Myers Squibb Foundation’s Specialty Care for Vulnerable Populations® Initiative](#), Unidos joins Farmworker Justice and community-based partners [Vista Community Clinic](#) in Vista, CA and [Campesinos Sin Fronteras](#) in Yuma, AZ, as well as [Harvard’s Center for Health Law and Policy Innovation \(CHLPI\)](#), to present a congressional briefing on telehealth and farmworker populations. The briefing will be held on **March 7th at 9:30 AM** in room 1309 of the Longworth Building. Breakfast will be served. The briefing, sponsored by Representative

Raul Ruiz (D-CA), the Congressional Hispanic Caucus Health Care Task Force, and the House Committee on Education and the Workforce, will also serve as a platform for Farmworker Justice and CHLPI to release their joint publication, *The Promise of Telehealth: Strategies to Increase Access to Healthcare in Rural America*. This publication builds off of some aspects of the Unidos project as it details the key roles both promotores de salud and telehealth play in increasing quality access to medical care for farmworkers in the U.S.

For more updates about key issues affecting farmworkers and the work of Farmworker Justice, including how to support our organization, please visit our website or follow us on social media.

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