



AGRICULTURE WORKFORCE COALITION  
STATEMENT SUBMITTED TO THE  
JUDICIARY SUBCOMMITTEE ON IMMIGRATION & BORDER SECURITY  
U.S. HOUSE OF REPRESENTATIVES  
May 16, 2013

Chairman Gowdy, Ranking Member Lofgren, and members of the Subcommittee, thank you for the opportunity to submit a statement for the record and thank you for holding this hearing on the *Agricultural Guestworker "AG" Act* (H.R. 1773). H.R. 1773 properly recognizes that America's farmers and ranchers need Congressional action to ensure a legal and stable workforce. This legislation represents an important first step in the House of Representatives in addressing immigration reform.

The Agriculture Workforce Coalition (AWC) brings together nearly 70 organizations representing the diverse needs of agricultural employers across the country. AWC serves as the unified voice of agriculture in the effort to ensure that America's farmers, ranchers and growers have access to a stable and secure workforce. The AWC came together out of the realization that, while America's farms and ranches are among the most productive in the world, they have struggled in recent years to find enough workers to pick crops or care for animals. The great success story that is American agriculture is threatened by this situation, and the AWC has been working to develop an equitable, market-based solution to the problem.

While the labor situation in agriculture has been a concern for many years, it has now reached a breaking point. Today, large segments of American agriculture face a critical lack of workers, a shortage that makes our farms and ranches less competitive and that threatens the abundant, safe and affordable food supply American consumers enjoy.

There are numerous reports from all over the U.S. of crops left to rot in the fields because growers lack sufficient workers to bring in the harvest. It is estimated that in California alone, some 80,000 acres of fresh fruit and vegetable production has moved overseas because of the labor shortage.

Repeated evidence over the past decades has shown that there are some jobs in agriculture that Americans simply do not choose to do. Although many of these jobs offer wages competitive with similar non-agricultural occupations, they are physically demanding, conducted in all seasons and are often seasonal or transitory. It is for these reasons that farmers have grown to rely on foreign workers, of which approximately 70 percent are in questionable legal status.

This labor crisis is exacerbated by the fact that farmers' and ranchers' only option to legally find the workers they need is the H-2A program, a program that has not worked for many agricultural employers.

The H-2A program's basic framework is overly restrictive and difficult for an employer to navigate. Furthermore, the H-2A program is only accessible for producers with seasonal needs; excluding the year-round needs of many producers such as dairy, livestock, mushrooms, and other crops. In recent years it has become even more unworkable and costly to use. The program has become so burdensome, in fact, that producers use it only when they absolutely need to, and the H-2A program provides only about five percent of agriculture's total workforce.

In an effort to achieve a lasting solution for the current and future agricultural labor in the U.S., the AWC came together with the United Farm Workers (UFW) to negotiate a legislative solution that we believe can garner the required political support. The landmark agreement between the AWC and UFW has two components. It includes both an earned adjustment of status for current experienced and essential but unauthorized agricultural workers, and a new, more flexible program to provide access to a legal workforce into the future.

In the short-term, to preserve agriculture's workforce and maintain stability in the sector, unauthorized farm workers would have the opportunity to earn legal status if they meet several conditions and continue to work substantially in agriculture over several years.

For long-term stability, an agricultural worker visa program would be established that will provide farmers and ranchers access to a legal and reliable workforce into the future and the flexibility to meet the needs of all producers. This program offers both employer and employee choice and flexibility through two different work options: an "At-Will" visa and a Contract visa. These three-year visas would be valid for employment with agriculture employers registered through the USDA and the program is distinct from the low-skilled visas for the general business community.

- "At-Will" Visa employees have the freedom to move from registered employer to employer without any contractual commitment, replicating the way market forces allocate the labor force now.
- Contract Visa employees would also have the freedom to move from employer to employer upon completion of any contractual commitment, giving both parties increased stability where it is mutually preferred.

The principles of the AWC/UFW agreement will continue to guide our efforts as work on the immigration issue begins in Congress. We appreciate that H.R. 1773 is reflective of some of the principles contained in the agreement, including a new two-pronged guest worker visa program that allows employers to hire foreign workers based on a contract or at-will; coverage of year round agricultural jobs, such as dairy and livestock; a longer visa than currently allowed in the H-2A; transfer of program administration to the USDA; and a more streamlined application and recruitment process.

We would also like offer some general comments on key provisions of the bill that we believe could be modified to better meet the needs of agriculture. In particular, we would respectfully suggest that workers be eligible to be admitted to the country with a work offer, rather than a work contract, prior to implementation of E-verify. Requiring initial contractual employment could artificially limit the ability of workers to enter the country if enough employers do not choose contract employment.

Also, the AWC has consistently advocated for a separate legal status for experienced agricultural workers that are currently working in the US and have been for a period of time. We do not believe the bill's approach of funneling them into the temporary H2C nonimmigrant program adequately addresses the needs of the industry. Additionally, the bill requires workers to return to their home country at least 1/6 the duration of their visa length. Touchback provisions are extremely disruptive to business practices. This is especially burdensome for year-round employers who would lose experienced and trained employees for three months at a time. Even with detailed business planning, providing for complicated rotating workforces, losing experienced employees for an extended period is impractical.

Lastly, the AWC has concerns about the operation of the at-will program. The program as included in H.R. 1773 is structurally unacceptable as written. Farmers seek simplicity in this process and require short-term employment relationships; therefore, the requirement that all initial employers must enter into contracts is concerning. We advocate that acceptance of a job offer, whether under contract or at-will, provides the assurances that the visa workers have valid grounds to enter the United States, but is not overly burdensome to those employers requiring more flexibility. We will continue to work as a resource in order to improve these elements and others that may arise through the legislative process.

We commend Chairman Bob Goodlatte on his forceful advocacy over the years for action that would ensure a secure, legal workforce in agriculture today and in the future. As the process unfolds in the House, the AWC will continue to work with Chairman Goodlatte and other members to ensure that any legislation achieves a workable, flexible and market-based solution that addresses the labor needs of agricultural employers both in the short and long terms.

We also note the Subcommittee heard from witnesses on the *Legal Workforce Act* (H.R. 1772). This legislation deals with an enforcement mechanism, E-verify, that would greatly impact the agriculture industry. Immigration enforcement without a workable program to address the labor needs of fruit, vegetable, dairy and nursery farms and ranches, will result in many U.S. farmers and their farm employees losing their livelihoods and decreased US agricultural production.

The effect would go far beyond the farm gate. If there is no one to pick the crop, industry sectors that operate upstream and downstream of farm production and harvest will be adversely impacted as well. Studies have shown that each of the nearly two million hired farm employees who work in labor intensive agriculture supports 2 to 3 fulltime American jobs in the food processing, transportation, farm equipment, marketing, retail and other sectors. Mandatory E-Verify without workable labor solutions for agriculture puts these American jobs, and the economies of communities across the country, in jeopardy.

The AWC supports a phase-in approach to E-verify for agriculture due to agriculture's unique hiring circumstances. A rushed approach could hurt agriculture even with a fix for our current and future workforce. Agriculture's unusual hiring situations often occur in remote rural areas with limited access to high-speed internet, actually including field-side hiring sites. Hiring has very pronounced seasonal peaks and there is often high turnover. Few farms have the luxury of dedicated human resources staff. Such factors justify allowing additional time for the necessary adjustments to be made to the program before the industry is required to comply with E-verify.

Thank you again for holding these hearings and we forward to working with the Committee and other members to ensure that the labor needs of agriculture both now and in the future are addressed in immigration reform legislation.



**Founding Association Members of AWC:**

American Farm Bureau Federation  
American Nursery & Landscape Association  
Florida Fruit & Vegetable Association  
National Council of Agricultural Employers  
National Council of Farmer Cooperatives  
National Milk Producers Federation  
USA Farmers  
U.S. Apple Association  
United Fresh Produce Association  
Western Growers Association  
Western United Dairymen

**Coalition Partners:**

Agriculture Coalition for Immigration Reform

**AWC Supporters:**

Agricultural Council of California  
American AgriWomen  
American Beekeeping Federation (ABF)  
American Frozen Food Institute  
American Mushroom Institute  
American Sheep Industry Association  
California Association of Winegrape Growers  
California Avocado Commission  
California Citrus Mutual  
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California Grape and Tree Fruit League  
California Women for Agriculture  
Certified Greenhouse Farmers  
Colorado Nursery & Greenhouse Association  
CoBank  
Cooperative Network  
Council for Burley Tobacco  
Farm Credit East  
Florida Citrus Mutual  
Florida Farm Bureau  
Florida Nursery, Growers & Landscape Association (FNGLA)

Georgia Farm Bureau Federation  
Georgia Fruit and Vegetable Growers Association  
Georgia Green Industry Association  
Hispanic American Growers Association  
Idaho Dairymen's Association  
Illinois Farm Bureau  
Louisiana Farm Bureau Federation  
MBG Marketing/The Blueberry People  
National Christmas Tree Association  
National Farmers Union  
National Grange  
National Onion Association  
National Peach Council  
National Potato Council  
Northeast States Association for Agricultural Stewardship (NAAS)  
Northwest Farm Credit Services  
OFA, An Association of Horticulture Professionals  
Oregon Association of Nurseries  
Produce Marketing Association  
Red Gold, Inc  
Society of American Florists  
South East Dairy Farmers Association  
Southeast Milk, Inc.  
State Agriculture and Rural Leaders (SARL)  
Sweet Potato Council of California  
Texas Citrus Mutual  
Texas International Produce Association  
Texas Vegetable Association  
U.S. Custom Harvesters, Inc.  
United Ag  
United Dairymen of Arizona  
Utah Dairy Producers  
United Egg Producers  
Village Farms International, Inc.  
Wine America  
Wine Institute  
Yankee Farm Credit  
Yuma Fresh Vegetable Association