



February 10, 2011

The Honorable Elton Gallegly, Chairman
The Honorable Zoe Lofgren, Ranking Member
House Judiciary Subcommittee on Immigration Policy
and Enforcement
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Gallegly and Ranking Member Lofgren:

We respectfully submit the following statement to be added to the official record for today's hearing on the E-Verify program, a matter of enormous significance in your districts, your state, and the nation. We have also attached a list of our coalition members. We look forward to working with you, and welcome the opportunity to provide further information and insights.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig J. Regelbrugge".

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**Agriculture Coalition for Immigration Reform
Statement on
House Judiciary Subcommittee on Immigration Policy and Enforcement
Hearing on the E-Verify Program
February 10, 2011**

As the House Judiciary Subcommittee on Immigration considers worksite immigration enforcement including mandatory use of the E-Verify program, the Agriculture Coalition for Immigration Reform (ACIR) respectfully urges members of the Subcommittee to carefully consider the unique challenges confronting the agricultural sector. If done piecemeal, stepped-up worksite enforcement, including mandatory E-Verify, will bring about unintended and likely irreversible structural changes to American agricultural sectors that require significant labor. These sectors include fruit and vegetable, dairy and meat, nursery and greenhouse, and Christmas tree production. Implications include diminished production of high-value but labor-intensive crops and products, reduced farm employment, loss of potentially millions of off-farm but farm-dependent jobs, increased reliance on foreign food imports, economic damage especially to rural communities, and reduced food security.

Agricultural Employers are Committed to Reforming a Broken System

The agricultural sector does not wish to defend nor perpetuate the status quo. To the contrary, agricultural leaders have actively sought a legislative solution since 1996. Since the beginning, agriculture has been open to doing what is reasonable and necessary to verify employment eligibility, so long as workable legal channels are part of the package. We seek a system that is simple and certain. Since 2000, our legislative efforts have been broad-based and bipartisan. Landmark legislation supported by ACIR and farm worker advocates was first introduced in the House and Senate in September, 2003, and has been refined and reintroduced with diverse bipartisan support in each successive Congress. The reforms we support reforms passed in the Senate in 2006, and passed out of a key Senate committee in 2008. However, since 2006, agricultural reforms have been linked to more comprehensive immigration legislation that has lacked sufficient political consensus to pass.

To reiterate, agricultural employers are willing to embrace improved immigration enforcement, so long as legal channels are sufficiently improved at the same time. We are not running away from E-Verify. As an industry we are leaning into it, working to learn about it. In June, 2010, ACIR along with local and regional participating associations hosted a tour and roundtable discussion with Department of Homeland Security (DHS) program staff responsible for the E-Verify program. DHS staff visited diverse agricultural operations in California's San Joaquin

Valley, including nursery, dairy, wine grape, and tree fruit farms, as well as a typical farm labor contractor remote hiring site. The tour and meeting established a robust and ongoing dialogue on how E-Verify can be adapted to and implemented in the agricultural sector. The staff saw and heard first-hand the unique challenges and limitations confronting the agricultural sector. These challenges and limitations include seasonality, perishability, migrancy, extremely high seasonal peak hiring needs, high turnover, a dearth of dedicated human resources staff, and limited technology access. These challenges are inherent to agricultural production, and must be accommodated if a solution is to work in the real world.

Farm Workforce Challenges that Any Meaningful and Workable Reform Must Address

The majority of farm workers in the U.S. are foreign-born and unauthorized. According to the National Agricultural Worker Survey (NAWS), over half of farm workers lack proper immigration status. Experts believe this estimate is low, however, because it is based on self-reporting. Many believe that upwards of 75% of hired farm workers lack proper immigration status, though they show documents that appear genuine. These numbers are corroborated by the results of I-9 audits and other enforcement targeting the agricultural sector. The demographic reality of the farm labor force described above is quite consistent nationwide, from New England to Florida to California and the Pacific Northwest.

Stated simply, aggressive worksite enforcement without broader reform would deprive agriculture of most of its workforce. Without broader reform, there is no factual or rational basis for concluding that agriculture will be able to source a domestic workforce sufficient to ensure continued U.S. production of labor-intensive crops and products. Demographic trends mean fewer and fewer Americans seek the work, a trend underway since at least the World War II era. The American workforce has become older, better educated, and more urban. It has chosen lifestyle and employment options other than field work on farms.

In recent years, in good times and bad, the domestic labor market has been extensively tested through public/private, employer association, and organized labor outreach aimed at recruiting Americans to turn to a lifestyle few have ever known. All such efforts have failed miserably, clearly demonstrating time and again that there is not a domestic workforce sufficient to meet the need. A few examples:

- In the late 1990's, at the insistence of Sen. Dianne Feinstein, a multi-county welfare-to-farm-work program was launched in California's Central Valley. Regional unemployment ran nine to 12 percent; in some localities, unemployment exceeded 20%. State and county agencies and grower associations collaborated to identify cropping patterns, labor needs, training, transportation, and other impediments. Out of over 100,000 prospective "welfare to work" placements, three individuals were successfully placed. In the aftermath of the program, several employment agencies indicated – in writing – that they would no longer seek to place the unemployed in seasonal agricultural work, because it was not a fit for these individuals.

- In 2006, in Washington State, a tight labor supply for the cherry harvest was a warning sign of a looming outright labor shortage for the much larger apple harvest. Again, state and local agencies teamed up with grower associations to conduct an advertising blitz and provide special training on how to safely pick apples without harming their market value or damaging the trees' future productivity. In that program, over 1700 workers were sought; roughly 40 were successfully placed.
- In 2007, the North Carolina Farm Bureau Federation set up a statewide hotline for job seekers, and advertised it in print and on radio. North Carolina needs roughly 60,000 crop and livestock workers each season. Two calls were received; one was from a grandmother who felt that farm work would do her grandson good.
- In 2010, the nation's largest farm worker union, the United Farm Workers, an organization which has long sought to defend the rights of domestic farm workers, launched the "Take Our Jobs" program. A media blitz included national coverage on the Stephen Colbert show. As of mid October, which generally marked the end of the growing season and the campaign, 10,021 people had inquired about jobs in the fields, yet only nine people had taken jobs in the fields. Most of them quit after a few days or weeks.

Some suggest that the existing H-2A agricultural worker program can fill the breach. Yet, H-2A has historically provided only about two percent of agriculture's labor needs. At its peak in 2009, it had crept up toward five percent of total workforce. The program has long needed extensive reform; it is now in virtual collapse under the administration of new rules that took effect March 15, 2010. The case of one of New York State's largest apple growers illustrates. In 2010, delays in processing meant 100 H-2A visa holders failed to arrive on time for the harvest. His apples were harvested, but quality had deteriorated by the time the workers arrived, and those quality losses are now showing as the apples have not stored well and have lost market value. The grower is now seriously thinking of pushing out trees and leasing the land to others who grow lower value but mechanized grain crops. The instability of the H-2A program is not worth the gamble on growing apples. In addition to loss of payroll, taxes, and other local impacts, 18 full time American jobs and a 300,000 bushel apple crop are at stake.

Yet even if H-2A could be substantially improved, reform of that program cannot alone stabilize the farm labor situation. Extensive reform and capacity building on farms and in American consulates abroad would be needed for H-2A to provide a meaningful percentage of needed farm labor.

Labor Instability Will Increase Reliance on Imports and U.S. Vulnerability to Global Food Volatility

Imposing enforcement without solutions to ensure a legal agricultural workforce would constitute a reckless and especially ill-timed roll of the dice, in view of the recent United Nations Food and Agriculture Organization (FAO) report on global food inflation. That report

noted the following:

*The F.A.O. price index, which tracks 55 food commodities for export, rose 3.4 percent in January (2011), hitting its highest level since tracking began in 1990. **Countries not dependent on food imports are less affected by global volatility.** Still, food prices are expected to rise 2 percent to 3 percent in the United States this year. [Emphasis added]*

Indeed, the United States is well on the road to reliance on food imports, especially in the fruit and vegetable sectors. According to a 2008 Congressional Research Service report:

Over the last decade, there has been a growing U.S. trade deficit in fresh and processed fruits and vegetables. Although U.S. fruit and vegetable exports totaled nearly \$9 billion in 2007, U.S. imports of fruits and vegetables were more than \$16 billion, resulting in a gap between imports and exports of more than \$7 billion. This trade deficit has widened over time — despite the fact that U.S. fruit and vegetable exports have continued to rise each year — because growth in imports has greatly outpaced export growth. As a result, the United States has gone from being a net exporter of fresh and processed fruits and vegetables in the early 1970s to being a net importer of fruits and vegetables today. (“The U.S. Trade Situation for Fruit and Vegetable Products”, Renée Johnson, Congressional Research Service, October 15, 2008)

The following table captures U.S. fruit and vegetable import trends over a 10 year period. Note that the second-largest percentage increase in imports involves China, a nation where food and product contamination that leads to illness and death is a frequent feature in our news.

Country Suppliers of U.S. Fruit and Vegetable Imports, 1997 and 2007

Country	1997 (\$ Millions)	2007 (\$ Millions)	% change
Mexico	2,089	5,353	156.2%
Canada	681	2,192	221.9%
Chile	501	1,358	171.1%
China	196	1,285	555.6%
Costa Rica	505	917	81.6%
Guatemala	201	543	170.1%
Brazil	142	515	262.7%
Ecuador	313	406	29.7%
Argentina	198	368	85.9%
Peru	43	341	693.0%
Subtotal:	4,869	13,277	172.7%
All Other:	2,205	2,777	25.9%
Total	7,074	16,054	126.9%

“Enforcement-only” Will Have Far-reaching Negative Job and Economic Consequences

Labor instability is already a factor in the trends unfolding in labor-intensive agriculture, and especially the fruit and vegetable sector. Application of mandatory E-Verify to agricultural employers, without measures to ensure an adequate legal labor force, will deprive agriculture of a majority of its workforce. As a matter of national policy, Congress must understand that mandating enforcement without reform is to accept that other countries will control the very food supply that the latest dietary guidelines suggest should occupy half of our dinner plates.

The importance of improved legal channels is upheld by policy experts working in this arena, as evidenced by the following paragraphs from a report on implementation of the North American Free Trade Agreement. Note that the author relies on the official NAWS estimate that roughly one-half of the U.S. hired farm labor force is unauthorized; because this estimate is based on self-reporting, subject matter experts believe the actual percentage is closer to 75%.

Farm labor is a third area where efforts toward further integration could pay substantial dividends for agriculture. Certain labor-intensive sectors of U.S. agriculture ...rely heavily on foreign-born workers. In 2006, the number of hired laborers employed by U.S. agriculture ranged from 614,000 in January to 876,000 in July, according to quarterly estimates from USDA's National Agricultural Statistics Service. Roughly half of the hired labor force in crop agriculture is believed to be undocumented. Changes that would broaden opportunities for foreign-born workers to work legally in U.S. agriculture would help to assure the continued availability of labor for the sector while eliminating the tremendous dangers associated with entering the United States illegally.

(“NAFTA at 13: Implementation Nears Completion”, Steven Zahniser, Outlook Report from the Economic Research Service, March, 2007, <http://www.ers.usda.gov/publications/wrs0701/wrs0701.pdf>)

Finally, a 2006 USDA report on the fruit and vegetable sector underscored the importance of immigration reform to the continued economic vitality and contributions offered by the sector. Though the report was narrow in its focus, the implications are equally true for other agricultural sectors including dairy, nursery and greenhouse, and even ranching.

The U.S. fruit and vegetable sector is at a crossroads. As an increasingly important component of U.S. agriculture, with nearly a third of U.S. crop cash receipts and a fifth of U.S. agricultural exports, the industry is becoming recognized by policymakers as pivotal to the health and well-being of consumers and to the economy of rural America. The various challenges facing the sector come from both domestic and international trade arenas. Key issues include labor cost and availability (including immigration reform and access to an affordable labor pool), strategies to enhance domestic demand, increased access and competition in foreign markets, and environmental issues. Confronting these

challenges is vital for the U.S. fruit and vegetable industry to continue into the future as a healthy and vibrant sector of the U.S. economy.

USDA "Fruit and Vegetable Backgrounder" (Electronic Outlook Report from the Economic Research Service, Gary Lucier, Susan Pollack, Mir Ali, and Agnes Perez, April, 2006).

In short, we stand for solutions that work to improve enforcement while providing an adequate means to ensure a labor force. It must be understood, though, that even if Congress proceeds wisely by pairing any E-Verify mandate with legal channels for agricultural employment, the E-Verify program needs other improvements as well. The most glaring deficiency is the program's routine failure to detect identity theft, and use of forged documents such as Social Security

cards that contain, for instance, a legitimate name and number. The law of unintended consequences suggests that mandating E-Verify without fixing these limitations will have the unintended effect of spurring massive identity theft, driving workers and employers underground and off the tax rolls, or both.

In conclusion, the facts are stark. A regimen of worksite enforcement alone, or mandating the use of E-Verify, without broader reforms that ensure a stable, properly authorized, and affordable labor force, will deprive labor-intensive agriculture of its workforce. Such an approach will devastate the sector and accelerate changes already underway that are not in the national interest. These changes include loss of production, loss of farm income, loss of on-farm and farm-dependent jobs, diminished economic activity especially in rural communities, and an increasing reliance on foreign nations to feed the American people.

We look forward to working with you to achieve improved immigration enforcement without the untenable and irreversible consequences that will be especially acute in the agricultural sector if an enforcement-only regime is imposed. Thank you.

The Agriculture Coalition for Immigration Reform (ACIR) is the broad national coalition representing over 300 national, regional, and state organizations whose members produce fruit and vegetables, dairy, nursery and greenhouse crops, poultry, livestock, and Christmas trees.