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# Farmworker Justice Update: 11/13/19

## Farm Workforce Modernization Act Introduced

On October 30, Reps. Zoe Lofgren (D-CA) and Dan Newhouse (R-WA), introduced the “Farm Workforce Modernization Act of 2019.” This bipartisan legislation, [H.R. 5038](#), was the result of complex negotiations between members of Congress, farmworker advocates, including the UFW, UFW Foundation, and Farmworker Justice, and agricultural employer organizations.

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Of utmost importance, the **legislation** would recognize the important contributions of farmworkers to our nation's food and agriculture systems. It would eliminate the constant fear of deportation by enabling hundreds of thousands of farmworkers and their immediate family members to obtain a lawful immigration status and a pathway to citizenship. At least half of the nation's roughly 2.4 million farmworkers are undocumented immigrants. With legal status and a path to citizenship, farmworkers would be better able to improve their wages and working conditions and challenge serious labor abuses. This would result in a more stable farm labor force, and greater food safety and security to the benefit of employers, workers, and consumers.

The bill also would revise the existing H-2A visa program to address some farm worker and employer concerns with the program. Farmworker advocates have pressed for reforms to reduce widespread abuses under this flawed program, while agricultural employers have lobbied heavily to remove most of its modest labor protections. The compromise codifies many of the existing protections in the program and includes some important new protections for farmworkers, but also contains various difficult concessions that were made in order to reach a bi-partisan agreement. Because the bill, if passed, would improve significantly the lives of hundreds of thousands of farmworkers and their family members, Farmworker Justice supports the Farm Workforce Modernization Act of 2019. We urge you to contact your Members of Congress and ask them to support the bill.

### **DACA Goes to the Supreme Court**

On November 12, the fate of Deferred Action for Childhood Arrivals (DACA) was **heard** in the Supreme Court. Farmworker Justice stands with all recipients of DACA and joined an amicus brief challenging the Trump administration's rescissions of the program and highlighting the DACA enrollee's reliance interest in the DACA program.

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## November 21 Appropriations Deadline Approaching

November 21 marks the deadline for the current **continuing budget resolution**, which was passed at the end of September. **According to reports**, Congress is expected to extend the deadline for another month, until approximately Dec. 20.

## DOL Releases Fourth Quarter H-2A Data

The Department of Labor (DOL) recently released 2019 **fourth quarter data** on the H-2A program. The program's **growth** continues, with an increase of 10.8%, bringing the H-2A program to a record **257,666 worker positions** certified for FY 2019. Another noticeable change was that California now sits as one of the top four H-2A program users, beating out North Carolina, which previously held the fourth spot, by nearly 2,000 workers. The top states in descending order are Florida, Georgia, Washington, California, and North Carolina. As always, very few applications were denied. This year saw only 57 denials of the 1,974 applications submitted.

## Article Highlights Lack of Overtime Pay for Farmworkers

On November 6, *Civil Eats* released an article highlighting the exclusion of farmworkers from overtime pay under federal law. The article notes that some states are beginning to address the discrimination farmworkers face in access to overtime pay. New York and California have both passed legislation through their state legislatures that establishes overtime pay protections for farmworkers, with California phasing in overtime pay after 40 hours a week and New York providing for overtime pay after 60 hours per week. In Washington state, a class action brought by farmworkers is challenging the exclusion of farmworkers from overtime pay as unconstitutional. The court held oral arguments on October 24th and a decision is expected in

the next 4-6 months. As noted by Columbia Legal Service's Lori Isley, "Excluding farmworkers who are doing some of the most dangerous work in our state violates their fundamental rights."

Meanwhile, at the federal level, Sen. Kamala Harris and Rep. Raul Grijavala re-introduced "The Fairness for Farmworkers Act," [H.R. 1080](#), earlier this year. Farmworker Justice [supports](#) this bill.

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On November 5, [Forbes](#) wrote about the conditions on dairy farms and the attempts to bring the yogurt company Chobani into efforts to improve labor rights for dairy workers. Dairy workers experience dangerous conditions on the job with long hours, low pay and few benefits, and no access to protections such as overtime pay (unless, as noted above, farmworkers are in one of the few states that provide any overtime protections to farmworkers). Organizers in New York are attempting to unionize workers to improve conditions, and they are hoping that Chobani, as a large buyer of dairy products, will step in to demand better conditions on the farms from which they purchase products. Chobani entered into an agreement with Fair Trade USA to address issues regarding dairy farmworkers, but the unions criticized the FTUSA system as weak on worker empowerment. Separately, Chobani demurred on getting directly involved in New York state politics to help pass the farmworker labor law ([S.6578](#)) that was passed last session, but they are in the process of rolling out their [Milk Matters](#) plan by 2025, which includes workers' rights.

### **El Salvador TPS Holders Receive One Year Work Visa Extension**



Temporary Protected Status (TPS) is granted to individuals from a country where it is temporarily unsafe for them to return for reasons such as natural disaster or war. Following action by the Trump administration to end TPS status for many countries, despite ongoing safety issues in the countries, the administration was **enjoined** in October 2018 from ending TPS for El Salvador, Haiti, Nicaragua, and Sudan. Following that, USCIS **published a notice** earlier this year with plans to follow the court order but still end the program for the above countries.

On October 28, El Salvador and the U.S. announced an **agreement** regarding TPS holders in the United States. The U.S. will extend TPS status for those from El Salvador for **one year**, moving the ending deadline to January 2, 2021. Other countries including Haiti, Sudan, Honduras, Nepal, and Nicaragua are also **currently protected until 2021**, but that protection could end as soon as **six months** after the abovementioned injunction is lifted if the administration wins the pending court case.

## ***Update on Farmworker Health and Safety***

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## Contact Farmworker Justice

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