



Food Chain Workers Alliance
3055 Wilshire Blvd. Suite 300, Los Angeles, CA 90010
213-761-8893 www.foodchainworkers.org
info@foodchainworkers.org

December 10, 2019

FCWA STANDS WITH FARMWORKER MEMBERS IN OPPOSING THE FARM WORKFORCE MODERNIZATION ACT OF 2019

FCWA is a coalition of worker-based organizations whose members plant, harvest, process, pack, transport, prepare, serve, and sell food, organizing to improve wages and working conditions for all workers along the food chain. **The FCWA opposes the Farm Workforce Modernization Act because we believe it will set dangerous precedents, divide workers, and ultimately make conditions even more difficult for farmworkers across the country.**

On November 12, 2019, H.R. 5038 – The Farm Workforce Modernization Act of 2019 was introduced by Representative Zoe Lofgren of California. The bill introduces a process for farmworkers to access permanent residency status and also amends regulations for workers who work in agriculture under the H-2A program.

Many of our farmworker members have a long history of organizing with farmworkers across the US and Canada and supporting workers to improve their wages and working conditions. **As an Alliance, we believe that regardless of immigration status, all farmworkers deserve dignity, respect, and full protection on the job and in the communities in which their families reside.** It is our belief that our movement should be guided by this vision of expanding access to rights and protection for all workers, especially the right to organize.

This bill moves in the opposite direction. It does not include the right to organize for farmworkers. It excludes many workers from "blue card" status, sets up a very long path to get residency status, and requires farmworkers to continue working in agriculture for up to 8 years to qualify. It expands the H-2A program without providing necessary oversight or adequate protections, and will serve to further divide farm workers against one another based on their immigration status. Many of our farmworker members have the following critiques of the bill:

- 1. PATH TO LEGAL STATUS IS LIMITED, COMPLEX AND EXCLUDES MANY CURRENT FARMWORKERS:** The bill introduces a complicated process to access residency status that will exclude many current farmworkers and their families. For those workers who would be eligible, the bill requires workers to continue working for a long period (up to 8 more years) in agriculture to qualify.

*Members: Brandworkers International * Burgerville Workers Union * California Institute for Rural Studies * Cincinnati Interfaith Workers Center * Comité de Apoyo a los Trabajadores Agrícolas * Community to Community Development * Familias Unidas por La Justicia * Farmworker Association of Florida * Fair World Project * Fédération du Commerce * International Labor Rights Forum * Justicia for Migrant Workers * Laundry Workers Center * Migrant Justice * Mississippi Workers Center for Human Rights * Northwest Arkansas Workers' Justice Center * Organization United for Respect * Pioneer Valley Workers Center * Restaurant Opportunities Centers United * Retail Wholesale Department Store Union * Rural Community Workers Alliance * Rural & Migrant Ministry * Street Vendors Association of Chicago * Street Vendors Project * Teamsters Joint Council No. 7 * Teamsters Local 63 * UNITE HERE Food Services Division * United Food & Commercial Workers Local 770 * Warehouse Workers for Justice * Warehouse Worker Resource Center * Workers Center of Central New York * Workers Justice Center of New York*

- 2. THE BILL EXPANDS A FLAWED H-2A PROGRAM** Many of our farmworker members organize with guestworkers or are seeing increasing numbers of guestworkers enter their regions and sectors and with that an increase in exploitation for both H-2A workers and domestic workers. H-2A workers' immigration status is tied to one employer and workers are isolated in rural farming locations with little access to support, making it much more challenging to speak out about exploitation. Furthermore, workers in the H-2A temporary foreign agricultural worker program have often paid significant sums to recruiters to obtain jobs, visas, and transportation. This current legislation does not jointly hold employers and recruiters liable for violations. When H-2A workers do report violations, they often face retaliation, including repatriation to their home countries. Despite this, we have seen many H-2A workers and guestworkers courageously come together to expose wage theft, health and safety violations, and other issues in their workplaces.

The bill as negotiated increases some limited protections for H-2A workers, but it also weakens other hard fought protections that are already in place, such as a 1-year freeze of the Adverse Effect Wage Rate. As negotiated, the current bill expands an exploitative program without the serious overhaul and oversight of the program that is needed. We believe we should strongly oppose employers using immigration laws to exploit and divide workers. Both guest workers and undocumented workers should have access to permanent status.

Earlier this year, the House of Representatives added a rider (section 533) to an appropriations bill for the Department of Homeland Security (H.R. 3931) that if approved would expand the H-2A program to year-round work, with no reforms made to the program. This is a direct response to lobbying from agricultural employers, especially the dairy industry, who for years have been pushing for expansion of the program. Some advocates are suggesting that H.R. 5038 would counteract and replace this harmful rider. It is our view that H.R. 5038 is simply not strong enough to do so and we should oppose *any* legislation that does not provide stronger rights on the job for farmworkers and guestworkers and oversight over their conditions.

The current proposed changes only reinforce the significant power imbalance between employers and workers. We strongly stand against any system of indentured servitude and believe all agricultural labourers should be treated with fairness and dignity and no worker should be disposable to serve the interests of the agricultural industry.

- 3. REQUIRING E-VERIFY IN AGRICULTURE WILL HURT FARMWORKERS AND SETS UP A DANGEROUS PRECEDENT:** E-Verify is a web-based system that allows enrolled employers to confirm the eligibility of their employees to work in the United States. For most employers, E-Verify is voluntary and currently, there are no entire industries that are required under law to use E-Verify. E-Verify unduly places a heavier burden on workers than on growers to comply and leaves workers vulnerable to fraud. We strongly

oppose the collection of data that could one day be used to criminalize workers. Beyond the incredibly harmful impact this will have on farmworkers, granting this concession sets up a very harmful precedent for other immigration reform measures in the future.

4. **INJURED FARMWORKERS ARE EXCLUDED:** Agriculture is one of the most dangerous industries for workers, yet this bill will exclude the hundreds of thousands of undocumented farmworkers who have been injured on the job and who will therefore not qualify for residency status. While the bill contains some language regarding workplace safety and prevention of sexual harassment, there is no mechanism or funding in place for tracking and enforcement, nor is there any language around provision of healthcare. The bill does not address how guestworkers are often repatriated and blacklisted after they are injured.

Finally, as our members have noted, there is no provision for the right to strike, the right to join a union, or the right to bargain collectively as a counterbalance to employers' control over workers.

For all of these reasons, the FCWA opposes the Farm Workforce Modernization Act. We call on our allies to join us in taking action to ensure this bill does not pass.

1. Call your legislators to oppose Section 533 in the appropriations bill H.R. 3931
2. Call your legislators to oppose H.R. 5038 – the Farm Workforce Modernization Act

Visit <https://www.usa.gov/elected-officials> for contact information for your federal, state and local elected officials. You can also be directly connected to US representatives by calling 202-225-3121 and US senators by calling 202-224-3121.