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**FARMWORKERS FACE GAPS IN PROTECTION
AND BARRIERS TO BENEFITS**

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SUMMARY

The living and working conditions of many farmworkers in this country are substandard. Our review of some of the federal laws, regulations, and programs that affect farmworkers suggests several areas in which the Congress could consider taking action to improve farmworkers' living and working conditions.

Our work indicates that current federal laws and regulations provide less protection to farmworkers and others exposed to pesticides than to workers exposed to other toxic and hazardous substances. They also allow children to work at a younger age in agriculture than in other industries.

Furthermore, the federal agencies responsible for regulating pesticide usage and field sanitation could better enforce federal laws and regulations to protect farmworkers' health. Available information shows that these agencies seldom assess penalties and when they do, the fines are too low to deter violations.

Also, barriers to farmworkers' access to the Medicaid and Social Security programs could be reduced, through procedural or program changes, stronger enforcement, or greater outreach, to better ensure that farmworkers receive entitled medical and cash benefits. For example, migrant farmworkers who qualify for Medicaid face barriers to access to the program because of state residency requirements. Also, farmworkers eligible for Social Security may not receive all their benefits as a result of agricultural employers who do not report or underreport their employees' earnings. In addition, those eligible for Supplemental Security Income may not receive benefits because they are not aware of the program or that they are eligible.

Finally, reliable, comprehensive data on farmworkers could be compiled to help evaluate their living and working conditions and determine the best course of action to take to improve their quality of life. At this time, data are either unavailable or inconsistent on the number of farmworkers nationwide, the number and ages of children working on farms, pesticide poisonings and other health problems among farmworkers, and the number of eligible farmworkers who do not receive Medicaid or Social Security benefits.

However, making changes to improve the living and working conditions of farmworkers may be difficult and slow. Decisions to make changes must take into consideration the costs associated with increased regulation and enforcement, their impact on our agricultural economy, and other factors. Nonetheless, a balance must be struck between increased costs and progress toward improving farmworkers' living and working conditions.

Mr. Chairman and Members of the Committee:

We are pleased to be here today to testify on some of the federal laws, regulations, and programs that affect farmworkers.

Our testimony today will provide information on (1) gaps in legal and regulatory provisions to protect farmworkers and the adequacy of federal agency enforcement of the provisions; (2) barriers to farmworkers' access to federal programs which provide cash or medical assistance, training, or employment services; and (3) the availability of federal and other data on farmworkers.

To obtain information for this testimony, we reviewed federal laws, regulations, and programs that affect farmworkers. In addition, we reviewed our own reports and past work and documents, studies, and other data obtained from the Departments of Labor, Health and Human Services, Education, Treasury, and Agriculture, and the Environmental Protection Agency as well as several states, farmworker advocates, associations of farm employers, and other experts. We also obtained the views of federal officials and others we contacted on the extent to which the federal laws, regulations, and programs we reviewed meet farmworkers' needs.

We limited our review to the impact federal laws, regulations, and programs have on farmworkers' living and working conditions. We did not address the impact of other important factors on the issues covered in our testimony. These factors include the farm labor

supply, the costs associated with increased regulation and enforcement, and their effect on our agricultural economy. As we will discuss later, our review was also limited by the availability of data.

Today, I will discuss certain federal laws, regulations, and programs that cover farmworkers. First, I will discuss those which have an impact on the health and welfare of farmworkers. Specifically, these include federal laws, regulations, or programs which affect pesticide usage, field sanitation, child labor, education, housing, and medical care. Next, I will discuss some of the Social Security programs which provide financial support to eligible farmworkers. Finally, I will discuss the Job Training and Partnership Act program and the Department of Labor (DOL)'s Employment Service which provide training and job placement services to farmworkers.

FEDERAL LAWS, REGULATIONS, AND PROGRAMS AFFECTING FARMWORKERS' HEALTH AND WELFARE

Pesticide Usage

Federal laws and regulations provide less protection to workers exposed to pesticides than to workers exposed to other toxic and hazardous substances. Current laws and regulations require employers who use hazardous substances other than pesticides to inform their employees of the names of the chemicals being used, the potential dangers of exposure, and emergency and first aid procedures. Employers using pesticides are not required to

provide the same information on pesticides to their workers. Consequently, farmworkers may go into fields sprayed with pesticides with no knowledge of the chemicals they are exposed to or the potential health risks.

In 1983 the Environmental Protection Agency (EPA), which regulates the use of pesticides, acknowledged that its regulations are inadequate to protect agricultural workers from the harmful effects of exposure to pesticides. EPA noted that the required length of time a field sprayed with pesticides must be vacated is not specified for all pesticides; and reentry times for some pesticides are too short. Also, the required protective clothing for workers during early reentry -- a long sleeve shirt, pants, hat, socks, and shoes -- is inadequate.

Furthermore, EPA has not fully tested many pesticides currently in use to determine their harmful effects. Because of concern that older pesticides have not received the same safety testing that is possible today, Congress mandated that older pesticides be re-tested. Until EPA completes this effort, which could take until the end of the decade, the health and environmental risks associated with older pesticides will not be fully known. In addition, EPA allows some new pesticides to be used before all required testing is completed.

During the past several years, EPA has been developing new pesticide regulations. The proposed regulations require that agricultural employers make information available to employees about the pesticides being used and the dangers from exposure. Furthermore, they require that employers provide training on how to prevent exposure and how to treat poisonings. The proposed regulations also establish a reentry time where none was previously specified, increase some already established reentry times, and strengthen protective clothing requirements.

If adopted, the new regulations should provide farmworkers greater protection against the harmful effects of pesticides.

Furthermore, the protection given to workers exposed to pesticides would be similar to that currently provided to workers exposed to other hazardous substances.

Agricultural employers who violate EPA pesticide regulations are seldom required to pay fines; and when fines are assessed, they often are too low to act as a deterrent. During 1990, EPA found violations of pesticide regulations during 633 agency initiated agricultural inspections but assessed fines in only 42 of them. EPA recognized that fines are too low and warning letters are not an effective deterrent. The agency gives only a warning letter to a grower with no past offenses, even if a farmworker has been poisoned. The proposed pesticide regulations I mentioned earlier,

however, neither raise fines nor ensure that fines are assessed when poisonings occur.

Nationwide data on pesticide poisonings among farmworkers are not compiled; and the data some states maintain may not capture all farmworker poisonings. However, EPA estimates that each year agricultural employees suffer 20,000 to 300,000 acute illnesses and injuries from exposure to pesticides.

Field Sanitation

Providing sanitation facilities in the fields can reduce the likelihood of pesticide poisonings and other health problems among farmworkers. Unsanitary field conditions exist in part because smaller farms are exempt from DOL field sanitation regulations and because of weak enforcement of the regulations by DOL's Occupational Safety and Health Administration (OSHA). DOL's 1990 survey of agricultural workers nationwide found that about 1 in 4 workers lack water for washing hands and about 1 in 10 lack toilets and drinking water at their work sites. While DOL regulations for field sanitation require some agricultural employers to provide drinking water, toilets, and hand washing facilities, other employers are exempt. An OSHA official told us that the agency rarely assesses fines for first time violations of field sanitation regulations. In 1990, OSHA found violations in 69 percent of field sanitation inspections.

Child Labor

The health and safety of children working on farms are at risk from farm injuries and exposure to pesticides. A nationwide study of farm injuries from 1979 through 1983 shows that more than 20,000 children and adolescents were injured and nearly 300 children died on farms each year. Research in 1990 on agricultural child labor in New York showed that over 40 percent of the children studied had worked in fields still wet with pesticides and over 40 percent had been sprayed while in the fields. Children may receive significantly higher doses of pesticides because of their lower body weight; and they may be much more susceptible to neurotoxic effects because of their developing nervous system and organs.

Federal child labor law and regulations allow children to work at a younger age in agriculture than in other industries. In other industries, the minimum age at which children can work is either 16 or 14 depending on the occupation and the type of work involved. However, federal law and regulations allow children younger than 14 to work in agriculture under certain conditions. Children aged 12 and 13 may be employed in agriculture outside of school hours with the written consent of their parents or on farms where their parents are employed. Children younger than 12 can work outside school hours, with parental consent, on family farms or on farms exempt from federal minimum wage laws.

We could not determine the level of DOL's child labor enforcement efforts in agriculture because this data was unavailable. However, advocacy groups told us that illegal child labor on farms was prevalent. Also, data on DOL's enforcement of child labor regulations in all industries indicate that enforcement has been hampered by limited resources and low fines.

Education

While data on the educational progress of children of farmworkers nationwide is not available, there is some data on the educational attainment of children of migrant farmworkers. These data indicate that they are an educationally disadvantaged group as compared with the rest of the population. For example, a 1989 report on the effects of migration on children states that migrant children are usually two or more years below grade level in reading and mathematics skills.¹ We reported in 1986 that among the most powerful predictors for dropping out is being behind in grade level.² A 1987 report on the grade retention of migrant students states that by second grade, 50 percent of migrant students nationwide are behind in grade, as compared with 19 percent of the

¹Joseph O. Prewitt Diaz, Robert T. Trotter II, and Vidal A. Rivera, Jr., The Effects of Migration on Children: An Ethnographic Study (State College, Pennsylvania: Centro de Estudios Sobre la Migracion, 1989), p. 106.

²School Dropouts: The Extent and Nature of the Problem (GAO/HRD-86-106BR, June 23, 1986).

general population.³ Research in 1987 to determine the national dropout rate for migrant students estimated it at about 45 percent, as compared with the rate for the general population of about 14 percent which we reported in 1986.⁴ To improve the continuity of education for migrant students, the Department of Education has several national migrant education programs and distributes funds to the states for local migrant education programs.

Housing

We and others have reported that the supply of housing for migrant farmworkers falls far short of the demand, leaving some homeless.⁵ Grower association representatives, farmworker advocates, and

³Migrant Education Programs, Grade Retention and Placement Evaluation Final Report (Oneonta, New York: State University of New York at Oneonta, December 1987), p. 1.

⁴New York State Education Department, Migrant Attrition Project (Oneonta, New York: State University of New York at Oneonta, August 10, 1987), Executive Summary; and GAO report cited in footnote 4.

⁵Reports include (1) David Cavanaugh, Rosemary Schmidt, and Howard Mitzel, National Farmworker Housing Study: Study of Housing for Migrant and Settled Farmworkers (Rosslyn, Virginia: InterAmerica Research Associates, Inc., December 1980), p. 53; (2) Immigration Reform: Potential Impact on West Coast Farm Labor (GAO/HRD-89-89, August 17, 1989); (3) S.J. Velarde, The California Farmworker Community: Issues of the 1990's (Sacramento, California: La Cooperativa Campesina De California and the Western Alliance of Farmworker Advocates, October 1990), p. 6; (4) Susan Peck, California Farmworker Housing (Davis, California: California Institute for Rural Studies, February 1989), p. 6; and (5) State of California Department of Housing and Community Development, Migrant Farmworker Housing In California (Sacramento, California: State of California, 1988), p. 4.

officials from DOL, which regulates farmworker housing, also agree that there is a serious housing shortage.

Furthermore, available housing is often deficient, crowded, and unsanitary. Although some farmworkers live in well kept quarters, studies by us and others have found that many farmworkers live in shacks and other seriously substandard, and often overcrowded, dwellings.⁶ Representatives of agricultural employer organizations told us that growers were not responsible for such deficient housing given that most farmworker housing was provided by local housing providers and private landlords.

DOL's 1990 national survey of agricultural workers show that about 28 percent of farmworkers live in housing provided by growers. When growers provide housing for their workers, they must follow DOL standards regulating the size, safety, and sanitation of rooms and buildings. We and others have reported that enforcement of federal regulations for farmworker housing has been limited, in part due to the level of DOL resources available for enforcement.⁷

⁶Reports include (1) Joseph O. Prewitt Diaz, Robert T. Trotter II, and Vidal A. Rivera, Jr., The Effects of Migration on Children: An Ethnographic Study (State College, Pennsylvania: Centro de Estudios Sobre la Migracion, 1989), pp. 55-56; (2) Immigration Reform: Potential Impact on West Coast Farm Labor (GAO/HRD-89-89, August 17, 1989); and (3) State of California Department of Housing and Community Development, Migrant Farmworker Housing In California (Sacramento, California: State of California, 1988), p. 4.

⁷Reports include (1) Edward F. Dement, Out of Sight, Out of Mind: An Update on Migrant Farmworker Issues in Today's Agricultural Labor Market (Raleigh, N. Carolina: National

If housing regulations were better enforced, however, this could worsen the housing shortage as growers who provide housing may shut down substandard housing rather than make costly repairs.

Medical Care

The Medicaid program pays for medical care provided to eligible low-income persons. The vast majority of individuals are eligible for Medicaid if they receive financial support under either the Aid to Families with Dependent Children (AFDC) program or the Supplemental Security Income (SSI) program. Both programs provide cash assistance to persons who have limited income and resources. Only aged, blind, or disabled individuals are eligible for SSI. Many farmworkers and their families do not qualify for Medicaid because many currently employed farmworkers are not eligible for AFDC or SSI benefits. DOL's 1990 nationwide survey of agricultural workers found that only 3 percent of farmworker households had received AFDC benefits during the past 2 years.

Migrant farmworkers who do qualify for Medicaid face barriers to access to the program because of state residency requirements. Some who are applying for Medicaid leave a state before the 45-day period allowed by federal regulations for Medicaid application processing elapses. Others who have Medicaid are often unable to

Governors' Association, August 1985), p. 38; (2) Immigration Reform: Potential Impact on West Coast Farm Labor (GAO/HRD-89-89, August 17, 1989); and (3) Susan Peck, California Farmworker Housing (Davis, California: California Institute for Rural Studies, February 1989), pp. 14, 15, 30.

find a health provider who will accept an out-of-state Medicaid card. Barriers to access to Medicaid created by state residency requirements could be removed through agreements between two or more states which would recognize Medicaid eligibility across state lines. However, states are not required to make these agreements and may not choose to make them because of additional costs and administrative problems. At this time, California, Texas, and Florida -- the three states with the most migrant farmworkers -- do not have interstate agreements with other states.

Available information indicates that few migrant farmworkers have Medicaid or employer-provided health insurance. Data on the number of farmworkers nationwide who have Medicaid are not available; but a 1982 study on migrant farmworkers in New York found that less than 12 percent had Medicaid. In addition, DOL's 1990 survey of agricultural workers nationwide found that only about 1 in 5 farmworkers have employer-provided health insurance. Also, a primary source of medical care to insured and uninsured farmworkers -- the federal Migrant Health Program, which operates clinics in rural areas across the country -- reported that it is able to serve only about 16 percent of the nation's farmworkers because of budget constraints.

A study of farmworkers in the Midwestern migratory stream during 1989 found that they suffer from health problems, including disorders of the ear, nose, and throat, burns, infectious and

parasitic diseases, respiratory problems, injuries, poisoning, and eye disease, at rates above the national average.

SOCIAL SECURITY PROGRAMS

The Social Security Act and related laws established programs which provide financial support to eligible retired or disabled persons and to survivors of deceased eligible individuals. Benefit payments are based on a person's lifetime earnings.

Employees do not receive credit for all their earnings when their employers either do not report or underreport their wages to the Social Security Administration (SSA). In our ongoing work at SSA, preliminary data show that many agricultural employers either do not report or underreport farmworkers' earnings to SSA. Also, information from the Internal Revenue Service (IRS) indicates that some agricultural employers do not withhold and pay Social Security taxes. IRS is responsible for ensuring that employers comply with withholding requirements. Agricultural employer organizations told us that growers generally withhold taxes. However, a grower organization and others believe that farm labor contractors who provide workers for growers do not always withhold taxes. A recent IRS analysis of farm labor contractors indicated that contractors often do not withhold taxes. We believe that employers who do not pay taxes will most likely not submit accurate earnings records to SSA.

The Supplemental Security Income (SSI) program provides financial support to eligible individuals who are disabled, aged, or blind. Those who are eligible, however, may not receive benefits because they are not aware of the program or that they are eligible. In 1990, we reported on SSI outreach activities, stating that most of the SSA district office managers we surveyed believe there is a continuing need to inform the public about SSI.⁸ The managers acknowledged a particular need for outreach to the rural poor and the non-English speaking populations. Given that farmworkers often live in rural areas and do not speak English, many may be unaware of the SSI program. The number of farmworkers eligible for Social Security programs who do not receive benefits cannot be determined because these data are not available.

FEDERAL TRAINING AND EMPLOYMENT PROGRAMS FOR FARMWORKERS

Some analysts are concerned that the principal federal training program for farmworkers cannot serve the current farmworker population because of insufficient funds. Section 402 of the Job Training and Partnership Act (JTPA) provides unemployed and underemployed farmworkers with job training and employment opportunities. Since the passage of the Immigration Reform and Control Act of 1986 (IRCA), over 900,000 unauthorized alien farmworkers have been legalized and are eligible for training and assistance under JTPA, including Section 402. Even though

⁸The Social Security Administration's Supplemental Security Income Outreach Activities (GAO/T-HRD-90-22, April 5, 1990).

Congress has allocated additional Section 402 funds to serve this expanded client population, funds are insufficient to serve all eligible farmworkers.

Advocacy groups and grower representatives told us that the principal federal job placement program -- DOL's Employment Service -- is not effective in finding farmworkers who need jobs and matching them with growers who need workers. DOL's 1990 national survey of agricultural workers shows that only one percent of farmworkers found jobs through the Employment Service. Representatives of farm employer associations told us that growers generally do not use the Employment Service because obtaining workers, particularly outside their localities, is a cumbersome and ineffective process. In addition, due in part to the availability of unauthorized alien farmworkers, agricultural employers may have little incentive to use the Employment Service to hire domestic farmworkers.

NATIONAL DATA ON FARMWORKERS

If reliable, comprehensive data on farmworkers were available, it could be used to help evaluate farmworkers' living and working conditions and determine what needs to be done to improve their conditions. However, data on the number of hired farmworkers nationwide vary. National surveys show that the hired farmworker population ranges from less than 1 million to 2.5 million

workers.⁹ Analysts generally agree that all of the nationwide surveys have serious limitations which call into question their reliability. Furthermore, some estimates of the subpopulation of migrant and seasonal farmworkers exceed 2.5 million. Estimates range from 1 to 4 million, based on whether accompanying dependents of workers and unauthorized alien workers are included. In addition, estimates of the percentage of unauthorized workers range from 8 to 50 percent of the country's farmworkers. Also, the number and ages of children working on farms are unknown.

Some data are available on the demographic characteristics of farmworkers. DOL's 1990 national survey of agricultural workers show that farmworkers are predominately young married Hispanic men with families and little education. Annual average earnings of hired farmworkers are low; and many families are among the working poor.

SUMMARY OBSERVATIONS

In summary, there are gaps in legal and regulatory provisions to protect farmworkers and their families in the areas of pesticides and child labor. There are problems with enforcement of pesticides and field sanitation regulations. Also, farmworkers

⁹Reports on national surveys include (1) Victor J. Oliveira and E. Jane Cox, The Agricultural Work Force of 1987: A Statistical Profile (Wash., D.C.: U.S. Dept. of Agriculture Economic Research Service, May 1989), pp. 1-2, and (2) Leslie A. Whitener, Counting Hired Farmworkers: Some Points to Consider (Wash., D.C.: U.S. Dept. of Agriculture Economic Research Service, December 1984), p. 2.

face barriers to access to Medicaid and Social Security programs. In addition, reliable, comprehensive data is not available on the number of farmworkers nationwide, the number and ages of children working on farms, and pesticide poisonings and other health problems among farmworkers. Our work suggests that the areas I have discussed today are ones in which congressional action could lead to a better quality of life for the American farmworker.

However, if history is any guide, making changes to improve the living and working conditions of farmworkers may prove to be difficult and slow. In light of the current budget situation, there are serious questions about program costs and funding priorities to consider. In addition, the increased cost to the grower of more regulation and enforcement will, to a greater or lesser degree, be passed on to the consumer; and this may affect our competitiveness in the agricultural sector. Nonetheless, a balance must be struck between increased costs and progress toward improving farmworkers' living and working conditions.

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Mr. Chairman, this concludes my prepared statement. We will be happy to answer any questions you or other members of the Committee may have.