



# FARMWORKER JUSTICE NEWS

## HEALTH POLICY EDITION

[www.farmworkerjustice.org](http://www.farmworkerjustice.org)

[www.harvestingjustice.org](http://www.harvestingjustice.org)

Spring 2011

## OSHA Fall Protections for Farmworkers

Falls are among the leading causes of injury for farmworkers in the United States, especially for orchard workers and others who frequently use ladders. Thousands of farmworkers are injured every year from falls and more than 20 die each year from fall-related accidents. According to the U.S. Department of Labor's Bureau of Labor Statistics (BLS), 157 farmworkers died from occupational falls between 2004 and 2009, and the fall fatality rate in agriculture last year was more than twice as high as the rates in transportation, manufacturing, or trade industries.

The US Occupational Safety and Health Administration (OSHA) has proposed revisions to federal safety standards that protect workers in most industries from fall injuries. These regulations require employers to take common-sense precautions, such as maintaining ladders and surfaces in clean and working condition, installing guardrails or other equipment to prevent falls, and providing fall-prevention training to employees.

The current proposed revisions to the fall protection standards do not include agricultural workers. Farmworker Justice is working with OSHA to provide the agency with information on the extent of fall-related injuries in agriculture and the feasibility of preventing them. On January 18, 2011, Farmworker Justice appeared at an OSHA public hearing on the fall safety standards. In testimony before the OSHA hearing panel, FJ Senior Attorneys Weeun Wang and Virginia Ruiz pointed to the adoption and enforcement of agricultural fall safety standards by three major farm states – California, Oregon, and Washington – as proof of the feasibility and effectiveness of protecting farmworkers from fall-related injuries.

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### How You Can Help

Farmworker Justice relies on the support of people like you. Now more than ever, we can help farmworkers create better lives for themselves and their families. There are a variety of ways you can get involved:

- **Make a donation** at [www.farmworkerjustice.org](http://www.farmworkerjustice.org)
- **Become a Harvester of Justice.** As a Harvester of Justice, your annual commitment of \$1,000 or more supports Farmworker Justice's work in the courts, Congress, Administrative agencies, and farmworker communities.
- **Become a Monthly Sustainer.** Sustainers who donate \$70 or more a month receive a complimentary ticket to our annual award reception.
- **Support the Shelley Davis Memorial Fund**
- **Leave a legacy** of justice for farmworkers. Consider Farmworker Justice when you prepare your will.
- **Contribute** through the Combined Federal Campaign. Farmworker Justice's registered number is #10778.

Please visit our website for more ways to get involved and we **thank you for your support.**

FJ News: Health Policy Edition is a joint project of Farmworker Justice and Migrant Clinicians Network, supported by the Health Resources and Services Administration's Bureau of Primary Health Care.

The contents of this publication are solely the responsibility of Farmworker Justice and Migrant Clinicians Network and do not necessarily reflect the official views of the Bureau of Primary Health Care or the Health Resources and Services Administration.

OSHA is currently reviewing the evidence presented at the hearings and will soon begin finalizing the revision of the fall protection standard. Farmworker Justice is interested in hearing from clinicians and others with data and/or anecdotes of farmworkers who have been injured in occupational falls. Workers' names and personal information will not be shared. Please send any fall injury stories to Etan Newman, Farmworker Justice Fellow at [enewman@farmworkerjustice.org](mailto:enewman@farmworkerjustice.org).



### **Are you interested in farmworker health research and policy? Subscribe to Eye on Farmworker Health!**

Eye on Farmworker Health: Current Developments in Research and Policy is a quarterly electronic newsletter covering important recent developments in research and regulation on issues affecting the health and safety of migrant farmworkers. Each issue includes summaries of recent articles and reports, as well as recommendations for using the information to help health professionals, outreach workers, promotores de salud, and advocates strengthen their efforts on behalf of farmworkers and their families.

If you would like to receive the newsletter via email, please contact Etan Newman at [enewman@farmworkerjustice.org](mailto:enewman@farmworkerjustice.org). Past issues are available online at <http://www.farmworkerjustice.org/resources-publications/eye-on-farmworker-health-e-newsletter>.

# **EPA Seeks Public Comment on Rule for Human Testing of Pesticides**

In February 2011, the Environmental Protection Agency (EPA) published in the Federal Register a proposed new rule that would tighten some of the restrictions on the agency's use of data from studies that intentionally dose humans with pesticides. The proposed changes would more effectively discourage the use of human subjects for pesticide testing by (1) expanding the scope of the rule to encompass all studies the EPA reviews, (2) prohibiting testing on children, and (3) further incorporating language from the National Academy of Sciences and the Nuremberg Code.

In 2006, the EPA reversed a previous agency ban on the use of data from pesticide studies conducted with intentionally-dosed human subjects. Often, these studies are conducted by chemical manufacturers to show that toxic products are not harmful to humans, and to encourage the EPA to loosen its restrictions on certain pesticides. Opposition from environmental and farmworker groups pushed Congress to include in its 2006 Appropriations Act a provision directing the EPA to bring its practices on pesticide testing in line with the ethical principles for human experimentation from the National Academy of Sciences and the Nuremberg Code.



Though the EPA changed its policy in 2006, farmworker and environmental groups sued the EPA, arguing that the new regulation did not fully prohibit testing on pregnant women and children, did

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not require the provision of medical care for study participants, and failed to mandate fully-informed consent in all cases. In a settlement of the lawsuit last year, the EPA agreed to revise the agency's policy on human testing of pesticides. Attorneys with Farmworker Justice, Natural Resources Defense Council, and Earthjustice served as legal counsel for the plaintiffs.

EPA seeks public comment on the proposed rule. Comments can be submitted online at <http://www.regulations.gov>, and must be submitted by April 4, 2011.

The Docket ID number is EPA-HQ-OPP-2010-0785. Please contact FJ Senior Attorney Virginia Ruiz at [vruiz@farmworkerjustice.org](mailto:vruiz@farmworkerjustice.org) for more information.



## *You are invited*

*12th Annual Farmworker Justice Award and 30th Anniversary Reception*

*May 4, 2011 in Washington, DC*

Please consider sponsoring this event which honors those who have made important contributions in the quest for justice for farmworkers. Awardees include: José Hernández, Janet Murguía, and Roman Ramos.

**José Hernández** truly symbolizes the spirit, dedication and potential of farmworkers. Mr. Hernández, son of Mexican immigrants who migrated to find farm work, grew up in the agricultural heartland of the Central Valley of California. With the support and sacrifice of his parents, he attended college and earned a master's degree in engineering and worked in the hi-tech field before joining NASA as an astronaut. His view from space caused him to reflect on seeing the world with no borders. He has spoken out on the need for the US and Mexico to work together on sensible immigration policy reform. Jose has established the Reach for the Stars Foundation which provides academic scholarships for youth.

**Janet Murguía** is President and Chief Executive Officer of the National Council of La Raza (NCLR), the largest national Hispanic civil rights and advocacy organization in the United States. Janet has been a strong, reasonable voice in an often shrill debate over whether this nation of immigrants will remain true to its democratic traditions. Under her leadership, NCLR has continued its tradition of helping Farmworker Justice and other farmworker advocates build a brighter future for the people who put food on our table.

**Roman Ramos** is a Paralegal with Texas RioGrande Legal Aid. Based in Laredo, Roman is relied upon by many farmworker attorneys to investigate cases of abusive treatment, educate workers about their rights, map the migration routes of Mexican workers from their villages into the rural areas of the United States, compile evidence needed for trial, and train a younger generation of attorneys and paralegals.

Contact Lynn Bock for sponsorship opportunities at [lbock@farmworkerjustice.org](mailto:lbock@farmworkerjustice.org).

**Individual tickets will go on sale in April.** Please find out more information on our website under Special Events.

# Act Against AIDS Leadership Initiative: Raising awareness of HIV/AIDS in the Latino Communities

One of the goals of Farmworker Justice's (FJ) Act Against AIDS Leader Initiative (AAALI) is to raise HIV/AIDS awareness among farmworker and Latino communities across the United States. One way we are doing this is by supporting the national HIV/AIDS awareness days and getting the word out about prevention, testing, and treatment. Through social media efforts like Harvesting Justice, Farmworker Justice's blog, Facebook, and Twitter we plan to increase organization's understanding of HIV/AIDS in at-risk communities throughout the U.S.

There are 11 national awareness days that encourage people to take action in the fight against HIV/AIDS and raise awareness of its impact on different communities and populations. February was Black History Month and National Black HIV/AIDS Awareness Day was observed on 7 February. African-Americans account for 2/3 of new HIV infections annually and although they make up only 14% of the U.S. population, they represent almost half of those living with HIV and half of those persons who die from AIDS as Black or African-American.

March is Women's History Month and is also when National Women and Girls HIV/AIDS Awareness Day is observed (10 March). Currently, about 20% of farmworkers are women. HIV/AIDS affects 280,000 women in the U.S. and the impact is rising. It's imperative that we educate our women and girls about HIV prevention, the importance of getting tested, and how to live with and manage HIV/AIDS. When compared to men, women and girls lack access to health care and this is exacerbated when other factors are taken into consideration like race and ethnicity and socioeconomic status.

The National HIV/AIDS Awareness Days are only a small part of the AAALI project. We are in the process of developing a monthly e-newsletter, called Aliados, featuring

HIV research being done in the Latino community. This newsletter will summarize, in layperson's terms, current published HIV/AIDS research that is applicable to the Latino community. It will also highlight HIV prevention activities being done around the country. In the spring we will also be launching our first HIV 101 webinar geared toward non-HIV organizations. The goal of this webinar is to provide basic HIV/AIDS information in a way that is useful for non-HIV organizations, highlighting the current epidemic in the Latino community.

If you would like more information on any of the AAALI activities, please contact Kattrina Hancy Merlo by email at [khancy@farmworkerjustice.org](mailto:khancy@farmworkerjustice.org) or by phone (202-293-5420).



# Immigration Update: Congressional Hearings on Enforcement

In January, the Immigration Policy and Enforcement subcommittee of the House Judiciary subcommittee held a hearing on immigration workplace enforcement. The hearing addressed current administration enforcement efforts. Kumar Kibble, Deputy Director of U.S. Immigration and Customs Enforcement (ICE), testified and noted that the Department of Homeland Security (DHS) is currently focusing its enforcement efforts on employers as a means to “effectively target the root causes of illegal immigration.” Kibble highlighted statistics of DHS’s worksite enforcement and noted that “in fiscal year (FY) 2010, ICE initiated a record 2,746 worksite enforcement investigations, more than doubling the 1,191 cases initiated in FY 2008,” and “criminally arrested 196 employers for worksite-related violations.” Kibble noted that DHS has engaged in record enforcement, deporting more people in both 2009 and 2010 than ever before, including more than 195,000 criminals last year. Witnesses presented varying viewpoints on the

need for increased enforcement and raids at worksites to target more workers and the need for immigration reform with a path to legalization. Some witnesses and members of Congress tried to argue that for each worker deported, an unemployed US worker could find employment by stepping into the vacated position. Other witnesses and members of Congress, however, noted that because of job pay and benefits, as well as differing skills and qualifications of workers, deportation would not necessarily result in more job opportunities for US workers and could instead have the opposite effect in terms of negatively impacting the economy.

Following the February hearing on ICE enforcement actions in the workplace, the House subcommittee on Immigration Policy and Enforcement held a hearing addressing the E-verify program. The E-verify program is an internet-based system that allows employers to electronically verify employment eligibility by comparing information from the

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## 2011 Adverse Effect Wage Rates

Alabama.....	\$9.12	North Carolina.....	9.30	Michigan.....	10.62
Arizona.....	9.60	North Dakota.....	11.52	Minnesota.....	10.62
Arkansas.....	8.97	Ohio.....	10.84	Mississippi.....	8.97
California.....	10.31	Oklahoma.....	9.65	Missouri.....	11.03
Colorado.....	10.48	Oregon.....	10.60	Montana.....	9.90
Connecticut.....	10.25	Pennsylvania.....	10.60	Nebraska.....	11.52
Delaware.....	10.60	Rhode Island.....	10.25	Nevada.....	10.48
Florida.....	9.50	South Carolina.....	9.12	New Hampshire.....	10.25
Georgia.....	9.12	South Dakota.....	11.52	Utah.....	10.48
Hawaii.....	12.01	Tennessee.....	9.48	Vermont.....	10.25
Idaho.....	9.90	Texas.....	9.65	Virginia.....	9.30
Illinois.....	10.84	Kansas.....	11.52	Washington.....	10.60
Indiana.....	10.84	Kentucky.....	9.48	West Virginia.....	9.48
Iowa.....	11.03	Louisiana.....	8.97	Wisconsin.....	10.62
New Jersey.....	10.60	Maine.....	10.25	Wyoming.....	9.90
New Mexico.....	9.60	Maryland.....	10.60		
New York.....	10.25	Massachusetts.....	10.25		

These wage rates apply to employers of temporary foreign agricultural workers holding H-2A visas. Employers of H-2A workers must pay the highest of (1) the AEWR; (2) the applicable prevailing wage; or (3) the state or federal minimum wage in effect at the time the work is performed.

*Federal Register: March 1, 2011 Volume 76, Number 40*

Employment Eligibility Verification Form (Form I-9) with records from the Social Security Administration, Department of State, and Department of Homeland Security. Currently, the program is voluntary, with some exceptions for federal agencies and federal contractors, as well as some state requirements. Again, some Members of Congress argued that increased use of E-Verify would open jobs for US workers, while other members of Congress noted that increased enforcement without immigration reform would be detrimental to workers and the economy.

## Connect with Us

Now you can follow Farmworker Justice four ways:

online: [www.FarmWorkerJustice.org](http://www.FarmWorkerJustice.org)

blog: [harvestingjustice.org](http://harvestingjustice.org)

 Find us on **Facebook** [www.facebook.com/FarmworkerJustice](http://www.facebook.com/FarmworkerJustice)

follow us on  **twitter** [FarmwrkrJustice](https://twitter.com/FarmwrkrJustice)

## The Shelley Davis Memorial Fund



The Shelley Davis Memorial Fund was created by the family of our late Deputy Director and Farmworker Justice to carry out the work that Shelley Davis developed and loved, especially litigation and advocacy on occupational safety and health of farmworkers.

The Memorial Fund has raised over \$225,000 toward a five-year goal of \$1 million. Supporters of Farmworker Justice may designate their donation to the Memorial Fund; donations are tax-deductible.

Your contribution will enable Farmworker Justice to advocate and litigate to win changes in government policies and employment practices to prevent illnesses and injuries from heat stress, pesticide poisoning, unsanitary conditions, dangerous machinery and other hazards.

The Memorial Fund Campaign Committee thanks all our donors for their support.

# Poder Sano! Initiative

Farmworker Justice's Poder Sano Initiative seeks to eliminate health disparities and HIV/ AIDS in rural Latino communities. Through this project, Farmworker Justice provides capacity-building assistance and community mobilization tools to strengthen community-based organizations' HIV prevention programs, improve monitoring and evaluation practices, and create partnerships for program support. We are currently offering a three-day interactive workshop around the country for organizations who want to involve their lay health educators or promotores de salud in their HIV prevention efforts.

This training covers two topic areas: how to build and sustain HIV/AIDS promotores de salud programs and using local media to support mobilization efforts. The training provides staff with (1) materials and guidance for training promotores de salud in HIV outreach, (2) focused coaching on developing and implementing an organizational media strategy, and (3) access to a variety of free technical assistance resources around community mobilization.

We recently held training workshops in south Florida and Fresno, CA. More trainings are planned for this fall in CA, FL and TX. For more information on this project or upcoming trainings, please contact Dagan Bayliss at 202-293-5420, x316 or [dbayliss@farmworkerjustice.org](mailto:dbayliss@farmworkerjustice.org) or visit [www.podersano.org](http://www.podersano.org).

# Fighting for Health: the Case against Methyl Iodide

Stretching 500 miles along California's coastline, the state's strawberry crop flourishes nearly year round. According to the California Strawberry Commission, California produces 87% of the nation's fresh and frozen strawberry production. However, to keep this succulent fruit in stock, conventional (non-organic) growers rely heavily upon the use of pesticides. Until recently, methyl bromide was the pesticide of choice used in the strawberry crop. Before planting season, methyl bromide, a fumigant, was injected directly into the soil ridding it of pathogens, weed seeds, as well as any beneficial life and bacteria embedded in the ground. However, as an ozone-depleting substance, the Montreal Protocol deemed that methyl bromide be phased out. In response the US EPA registered methyl iodide as a replacement for methyl bromide in 2007. Methyl iodide, another fumigant, lacks the ozone-depleting compounds of its former counterpart, but has scientists and community members alarmed at the potential health risks posed to humans. Despite the controversy surrounding this pesticide, on December 1, 2010 the use of methyl iodide was approved in California.

Pesticide Action Network of North America (PANNA) states that methyl iodide is a "known carcinogen and neurotoxin that causes late-term miscarriages. Scientists using this chemical in the lab to induce cancer in cells take serious precautions — using a ventilation hood and protective gear when handling small amounts." (<http://www.panna.org/cancer-free-strawberries>) In California the California Scientific Review Committee (SRC) —the panel of experts responsible for making recommendations to the Department of Pesticide Regulations (DPR)— expressed that they're "concerned about damage the fumigant could inflict on developing brains in infants and children, including subtle changes to IQ, or behavioral changes that might take years to detect." ([http://www.huffingtonpost.com/2010/06/07/methyl-iodide-controversy\\_n\\_602904.html](http://www.huffingtonpost.com/2010/06/07/methyl-iodide-controversy_n_602904.html))

The potential for devastating impacts on health has brought together advocates from the farmworker community,

environmental organizations, educational, research, and medical institutions, and general concerned community members. Theodore Slotkin, another SRC panel member and professor of pharmacology and cancer biology at Duke University, writes, "It is my personal opinion that this decision will result in serious harm to California citizens, and most especially to children." Recognizing that farmworkers are at great risk of first-hand exposure to methyl iodide, Erik Nicholson, national vice-president of United Farm Workers states that "farmworkers are on the front lines of methyl iodide use and will suffer the most tragic consequences. If this decision is allowed to stand, strawberries may very well become the new poster child for giving farmworkers cancer and late term miscarriages." (<http://www.ensnewswire.com/ens/jan2011/2011-01-05-091.html>)

In late December after the CA DPR approved the restricted use of methyl iodide, Earthjustice and California Rural Legal Assistance, Inc. filed a lawsuit representing Pesticide Action Network North America, United Farm Workers, Californians for Pesticide Reform, Pesticide Watch Education Fund, Worksafe, Communities and Children Advocates Against Pesticide Poisoning as well as farmworkers Jose Hidalgo Ramon and Zeferino Estrada against the State of California. The plaintiffs allege that DPR's decision to register methyl iodide violates the California Environmental Quality Act, the California Birth Defects Prevention Act, and the Pesticide Contamination Prevention Act. Environmental and farmworker advocates have also appealed to newly-elected Governor Jerry Brown to reverse the DPR's decision, and have petitioned the US EPA to re-open its decision to register methyl iodide. On March 23, 2011, Gov. Brown stated that his administration will take a "fresh look" at the state's methyl iodide decision. And on March 17, 2011, the EPA invited public comment on the petition to repeal methyl iodide's approval. The deadline for public comment is April 30.

## Farmworker Justice Celebrates 30th Anniversary

Farmworker Justice has been working to improve the wages, working conditions, health and immigration status for farmworkers since 1981.

### Did you know...

#### **The majority of farmworkers are undocumented?**

This leaves them vulnerable to abuses and FJ advocates for a sensible solution to the immigration debate.

#### **Some labor laws do not apply to farmworkers?**

FJ works to ensure that farmworkers receive reasonable compensation under safe working conditions.

#### **Agriculture is one of the three most dangerous occupations?**

FJ works to prevent illness and injury that arise from lack of sanitary facilities, inadequate protections from pesticides, and unsafe equipment and machinery in the fields. Additionally, FJ works on health issues that impact farmworkers lives – including HIV and AIDS awareness programs.

Please consider supporting Farmworker Justice financially in 2011 and help us make the next 30 years one of positive change for farmworkers and the American food system.

Farmworker Justice plays a leadership role in advocacy for migrant and seasonal farmworkers in the nation's capital. For 29 years, FJ has been helping empower farmworkers to improve their wages and working conditions, labor and immigration policy, health and safety, and access to justice.

Our work depends on you! Please help Farmworker Justice continue and expand its work by making a financial contribution today.

### **Thank you very much.**

Enclosed is my tax-deductible donation of \$ \_\_\_\_\_

Please place me on your mailing list.

Name: \_\_\_\_\_

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City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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You may donate with a credit card online at [www.farmworkerjustice.org](http://www.farmworkerjustice.org) or send a check to: Farmworker Justice, 1126 16th Street, NW, Suite 270, Washington, DC 20036