

NOMINATION BALLOT

1. Follow all instructions **exactly!**
2. Please print clearly or type.
3. You may nominate any member in good standing to any office.
4. Please nominate at least one person (you may nominate more) for each of the offices of President, Vice President, Secretary, and Treasurer and Regional Vice President.
5. It takes 5 nominations for a nominee to become a candidate on the election ballot.
6. **Your nomination must be received by March 29, 2004.**
7. Mail your nomination to:
Gilbert Garcia, Chairperson
NAAE 2004 National Election Committee
P.O. Box 1005
Laredo, Texas 78041

OFFICE:	NOMINEE:	WORK LOCATION:
President	1. _____	_____
	2. _____	_____
Vice President	1. _____	_____
	2. _____	_____
Secretary	1. _____	_____
	2. _____	_____
Treasurer	1. _____	_____
	2. _____	_____

Nominations for Regional Vice President (R.V.P.) will be accepted only for a nominee from the region in which you are located. **SEE NEWSLETTER FOR DESCRIPTION OF NEW CBP AND PPQ VICE PRESIDENT REGIONS.** Place an "X" in the box next to your Region, and then in the space below please enter the name or names of the candidate(s) of your choice from your Region.

Your Region:	PPQ Eastern	[]	PPQ Western	[]
	CBP Eastern	[]	CBP Northern	[]
	CBP Southern	[]	CBP Western	[]

OFFICE:	NOMINEE:	WORK LOCATION:
R.V.P.	1. _____	_____
	2. _____	_____

Gilbert Garcia, Chairperson
NAAE 2004 National Election Committee
P.O. Box 1005
Laredo, Texas 78041

TO:

Gilbert Garcia, Chairperson
NAAE 2004 National Election Committee
P.O. Box 1005
Laredo, Texas 78041

YOUR RIGHT TO CHOOSE!

N.A.A.E.

National Association of Agriculture Employees

N E W S L E T T E R



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NAAE Web Site <http://naebranch14.freeservers.com>

N.A.A.E.

National Association of Agriculture Employees

Newsletter Issue No. 68 February 2004



A Message From Our President

Mike Randall

Watching and Waiting

Hope you had a happy Groundhog Day. Don't laugh, groundhog may be safer than the beef! Speaking of beef, Where's the beef? Most of the officers in PPQ await imminent promotion or repromotion to GS-11 (except a number of folks who do not reside in the 50th State and have the misfortune to be tasked with the Standard Job of "predeparture officer"—the classification sin of "touching baggage" condemned to GS-9. Of course, we're still looking to fix this problem!)

Also in waiting are ALL Agriculture Inspection Specialists in CBP who will soon receive their GS-11 promotions. At press time, we have heard that CBP will finally get a round tuit about March 21st (We kinda' thank CBP, but we know there was some good NAAE prodding along the way as to: "What about baggage?" "Why not everyone?" "Why not now?" "Next August???? You've got to be kidding?!") We can only hope CBP shows a similar interest in our technicians... a wish.

OK, now we can dispense with the good news and move on to something more normal. We have seen the publishing of the DHS Personnel System Regulations notice of proposed rulemaking--- in its full fury, the full details which will reach you before this newsletter arrives. We have only seen the preview of the changes—the interim regulation is to be published in the Federal Register the week of February 16th. Some of the changes offered may be half-nice, but most will probably be DASTARDLY-STINK-EVIL. We will be able to thank the current Administration, its extreme anti-employee bent, and the Congress who gave the Administration carte blanche to do it.

Tyranny in the defense of liberty is a vice.

Pay will take a new form as pay banding- a moving target- designed to pay the majority of employees LESS.

Discipline? Zero strikes you're out. "Easy-hire" systems coupled with "easy-fire" systems.

Your Union rights will definitely be affected in a way we cannot easily predict. We already know that ignoring the Union, violating the law, and implementing without negotiating and trampling rights must be a component of the “new” system. This is CBP’s M.O.

It is a sad statement when an Agency founded upon enforcing the law feels it needs to break the laws some in order to “fulfill its mission.”

Maybe we’ll come out a bit on the plus side with classification. We made sure CBP knew about PPQ’s failed GS-11 efforts and the “Catch 22” classification system that bit us.

In PPQ we watch these changes in DHS and companion changes in the Defense Department with jaundiced eye and ear knowing that we are soon to follow if we do not have a regime change soon.

Please consult the **interim** web page URL (in an article below) for links to information regarding the personnel system including the Federal Register posting and the comment period.

What Am I Looking at Here?

2004 is NAAE’s 50th Anniversary. This year brings plenty of change. We are now the labor force for two organizations in two Departments. NAAE is a tradition of protecting American agriculture. NAAE is also a tradition of democracy in the workplace. To continue that tradition we start another election. At the front of this issue is a nominations ballot. USE IT! Separate off the first page for mailing. We are a rank-and-file Union. You know who your colleagues are who can navigate us through these rough waters-- Those who can negotiate, mediate, moderate (and if absolutely necessary—teach the boss basics of what human beings need to EXIST!).

In order to permit nominations, a little explaining is needed. The constitution of the National Executive Committee will have to be changed to ensure proportional and effective representation for the two units. This means new regions for NAAE-PPQ and NAAE-CBP. A full explanation of the by-laws amendment proposals needed to change the Executive Committee is printed later in this newsletter. These by-laws amendment proposal ballots will be sent along with the general elections ballot after the nomination process. Read about proposed by-laws changes before returning the nominations ballot. I trust they will make sense. Do not hesitate to call an Executive Committee member if you need further explanation.

CONVENTION!

NAAE’s 50th anniversary convention is tentatively scheduled for June 5th through June 10th at a location to be determined in the Northeast Region hopefully near NAAE’s birthplace New York City. We are planning training and fun. See your old PPQ buddies, visit with your Homeland cousins. A birthday party for NAAE! Further details in our next newsletter and through our web contacts----

Max Leimgruber Jr. of Calexico is again your host as chairperson of the Convention Committee—a return as convention planner extraordinaire.

The Website

As you may have noticed, our website has sort of taken a siesta—a departure from nominal operations. IT HAS BEEN QUITE BROKEN!

No doubt we can owe some of this to the recent promotion of Northeast Region Vice President and Grand Webmaster Mike Greenberg. We wish Mike the best of luck in his future endeavors with CBP. Until we can get the webpage back up to snuff, I will provide the following address as a temporary auxiliary website and status report on the main NAAE page until the new webmaster does his magic:

<http://www.aloha.net/~mikeran/NAAE.htm>

A New Executive Committee Member

We welcome Bill Tommasini of JFKIA who graciously has offered his services and has been appointed as NAAE Northeastern Region Vice President. Bill has even promised to become “almost as good as Greenberg” in running and maintaining the website.

WELCOME BILL!

Changes on the Executive Committee

Southeast Region Vice President Roger Kiley has recently resigned to concentrate on his new career goal of becoming a CBP Officer and supervisor. Good luck Roger in making this career change. Roger, please take a lap for me at FLETC!

PPQ ROUNDUP

Feel blessed that most of this letter is not about the PPQ workplace.... Ah but it is! It is essential that we fight cockamamie changes to the Title V personnel system NOW at DHS! We must stop what we can **prior** to a spread in DHS....otherwise we will see these changes in PPQ--Full court press! Max effort! It is still no bowl of cherries in PPQ. We are in the fight of our lives for official time needed to represent ourselves. Management has proposed to upend the official time provisions we have worked under since 1995. Also on the agenda are 4 FLRA representation petitions. After 2 years waiting for a decision, we were successful in our quest to represent the Safeguarding Intervention and Trade Compliance Officers. It was natural that our community extend to a job created and developed by and in the image of PPQ Officers. We are seeking to represent all GS-400 series professionals. This is necessary to combat Management’s divide and conquer strategy of continually creating new positions that are not GS-436 PPQ Officers. In addition we will vigorously contest Management’s determination that the GS-436 Domestic Program Coordinator and the newly created GS-436, 414, 428 and other series Identifiers are MANAGEMENT positions not eligible for bargaining unit protection.

Shame on Management for such contrived definitions of “a manager!” We do not contest the GS-11 and GS-12 determinations for these positions. It’s abouttime! We must protest these sham management determinations lest we all be labeled some type of petty manager (we wouldn’t even be able to contest the new *lower* grade.) Management, see you in court!

The Legal Report

By Kim D. Mann Esq.

NAAE and its Executive Committee have been moving fast and furiously to deal with the ill-conceived Labor Relations philosophy of the Department of Homeland Security’s Customs and Border Protection: hewn from the Dark Ages, it is to implement all changes in conditions of employment and then, if absolutely necessary, negotiate with the unions. This highly illegal policy of after-the-fact negotiations has had its biggest impact upon tours of duty, creating new shifts and changing others, particularly where overtime has been the principal method of providing AQI services after 5:00 p.m., and then offering to negotiate!

In the face of these blatantly illegal actions, NAAE has submitted numerous unfair labor practice charges to the Federal Labor Relations Authority in San Francisco. FLRA’s SF Regional Office is now gathering the facts and will soon decide whether to file ULP charges against DHS/CBP. (NAAE may only request FLRA to file ULP charges against the Agency; it can not file the charges itself directly against the Agency.) Despite the growing number of ULP charges for premature, illegal implementation, DHS/CBP has shown no signs of slowing down its illegal activities, implementing prior to negotiating with the Union.

The most critical change in conditions of employment that DHS/CBP has initiated without negotiating is astoundingly simple: CBP intends to realign the shifts to coincide with its unilateral perception of the workload wherever and whenever it sees fit to do so. It justifies this plan for *carte blanche* authority to make whatever changes it chooses, without advance notice in large part by reliance upon another equally illegal change CBP has also implemented -- limiting to \$30,000 the amount of overtime any single Legacy Agriculture employee working for CBP may earn in one year. This pretext for claiming absolute discretion to change and add shifts is illegal because only Congress may authorize restrictions on employee overtime and other premium pay related issues, and Congress has not authorized an unconditional cap on overtime. Congress has only stated that their overtime may not exceed \$30,000 per year, but only to the extent congressionally appropriated funds are used to pay for that overtime. As DHS well knows, the bulk of the funding for Legacy Agriculture overtime comes from AQI user-fees collections and from reimbursable government overtime funds. Very little comes through congressionally appropriated funds.

NAAE’s response to this illegal conduct has been two-fold. NAAE has filed a class-action grievance on behalf of all DHS/CBP Legacy Agriculture employees who

<http://naebranch14.freeservers.com>

have lost overtime or overtime opportunities as a result of the illegal overtime cap. NAAE has filed this grievance at CBP Commissioner Bonner's level, and not surprisingly, the grievance has gone unanswered. Accordingly, President Mike Randall has invoked arbitration on behalf of the NAAE and its CBP constituents.

Second, even though NAAE's ULPs attack the conduct of CBP management, electing to implement now and negotiate afterwards, NAAE also has pursued an alternative course of action. It has also elected to engage in negotiations with CBP over the overtime cap and the implemented plans for extended tour coverage and for *carte blanche* discretion to change and add shifts. These negotiations are taking place at the national level, probably in early March. I will serve as Chief Negotiator with able assistance from Miami's Bob Skafidas and JFKIA's Bill Tommasini. In conjunction with those negotiations, CBP's negotiating strategy will be to insist that all negotiations on this subject will take place solely at the national level -- no negotiations are permitted at the local level, even after the conclusion of national negotiations. NAAE will vigorously contest this position.

All federal unions representing employees in DHS/CBP must be prepared for immediate dramatic changes in the personnel system governing CBP employees and the roles unions may play in protecting the rights of CBP employees. We are told to expect the public announcement of the new DHS personnel system sometime in mid-February 2004. There may be a delayed effective date, at least for many of its provisions. Beyond question, Secretary Ridge, with the acquiescence of OPM Director Kay Coles James, intends to curtail the activities of the unions in the name of national security and to minimize the alleged difficulties in dealing with more than one union.

Since 9/11, the federal unions have been visited by the alleged "Chinese curse," "May you live in interesting times." This "Chinese curse" is said to be derived from the Chinese proverb, "It's better to be a dog in a peaceful time than to be a man in a chaotic period." You are men and women, not dogs, but DHS/CBP seems unable or unwilling to make this distinction in managing its CBP employees who have come over from Agriculture.

The untimely death of Arbitrator Professor Bernhardt two years ago and the transition of two-thirds of the NAAE bargaining unit to DHS/CBP have forced delays in the resolution of the remaining 100+ grievances seeking retroactive temporary promotions and back pay for performing as GS-9s the higher graded duties of GS-11s. With many of the initial transition problems resolved, NAAE has insisted that USDA/APHIS/PPQ and DHS/CBP resume processing these long-pending grievances and commence arbitration if no settlement can be achieved.

Resumption is somewhat complicated by the fact that some of the roughly 100 grievants are now employees of DHS, others remain in PPQ, and still others have retired

or left the Agency. Management has told NAAE to deal with PPQ to resolve the grievances of those employees who remain with PPQ and with DHS with respect to those employees who have moved over to CBP. While APHIS/PPQ has indicated a willingness to discuss possible settlement, the initial rumors from DHS suggest it has no intention of seriously considering any form of settlement, leaving NAAE to arbitrate all these cases.

Thanks to the diligent work of Tom Valenti, APHIS's Labor Relations Chief, most, if not all, of the 14 successful Miami grievants have received their full retroactive temporary promotions and back pay. The same is true of the four successful "Cleveland Four."

What remains next as first-priority for resolution are the nine Baltimore grievance cases that Arbitrator Bernhardt heard before his death, but left undecided, followed by the 15 other arbitration cases, similar to the "Baltimore Nine," that were to be scheduled for hearing in Baltimore, but were not because Professor Bernhardt passed away. APHIS/PPQ and NAAE have received a new list of qualified potential arbitrators who are willing to decide the "Baltimore Nine" and hear the remaining Baltimore cases. The first step will be for NAAE and Management to select the arbitrator from that list, absent a settlement. Fortunately, most of these 24 Baltimore grievants are believed to be PPQ employees.

The remaining group of some 70 grievants are, for the most part, large-port employees working or who worked in either Port Elizabeth, NJ or San Juan, PR. If there is no feasible means of resolving those grievances and if we establish that these remaining grievants are still willing and able to continue to pursue their grievances, we will have no choice but to arbitrate their cases, probably in San Juan and Newark. We will keep everybody apprised.

The following is a letter to all members concerning the Bylaws election to be run concurrently with our General Election.



National Association of Agriculture Employees
Post Office Box 31143, Honolulu, Hawaii 96820-1143
Phone (808) 861-8449 Fax: (808) 861-8469

February 15, 2004

To: All NAAE Members

Re: Ballot to Revise Constitution/Bylaws of NAAE

Dear Ladies and Gentlemen:

Following the creation of the U.S. Department of Homeland Security and the transition of approximately two-thirds of the NAAE bargaining unit from APHIS/PPQ to DHS/CBP, NAAE has been challenged to provide union representation to the “Legacy Agriculture” bargaining unit members that went over to CBP while continuing to provide full representation to those who remain in PPQ. CBP, dominated by Customs managers and Labor Relations personnel, has seemingly been dealing with NAAE pursuant to the motto, “Just Say No.” PPQ, for its part, has not been fully cooperative either: it declines to allow NAAE Executive Committee members, who are employees of APHIS/PPQ, to receive official time to carry out their representational duties on behalf of Legacy Agriculture employees in CBP. NAAE and management of both agencies are continuing to try to resolve these issues.

Aside from these external forces, there are internal hurdles impeding efficient and comprehensive representation from NAAE. They must be overcome as well. Many are imbedded in the current but now partially obsolete NAAE Constitution/Bylaws. The Bylaws simply do not contemplate a representational structure where some members of the bargaining unit are in one agency and other members are in another agency. The NAAE Executive Committee has recognized that NAAE must restructure how it functions if it intends to provide the best possible representation for both Legacy Agriculture employees in DHS and PPQ Officers remaining in APHIS/PPQ. This restructuring must be captured in a revised Constitution and Bylaws.

Based in part upon information provided by bargaining unit members, a Task Force I appointed to study the matter has made a series of recommendations to the Executive Committee. They are intended to put in place a relatively flexible new structure, enabling NAAE to begin to provide comprehensive representation to the constituents of both DHS and APHIS starting in 2004. This new structure requires seven

specific Bylaws amendments. These amendments, approved by the Executive Committee and summarized below, are set forth on the attached ballot for your review and, hopefully, your approval. Each amendment must be considered and accepted individually although they are tied together with other amendments on the ballot.

THE SAMPLE BY-LAWS BALLOT, AND THIS EXPLANATION ARE PROVIDED TO YOU WITH THIS NEWSLETTER, IN ORDER THAT THE INCLUDED NOMINATION BALLOT WILL MAKE SENSE. THE NOMINATION BALLOT INCLUDES NEW OFFICES AND REGIONS PROVIDED FOR IN THE BY-LAWS. THE BY-LAWS BALLOTING WILL OCCUR SIMULTANEOUSLY WITH THE GENERAL ELECTION OF OFFICERS. SEE THE NEW NAAE CBP REGIONS IN THIS NEWSLETTER LOCATED AFTER THE SAMPLE BALLOT.

1. Currently there are nine members on the National Executive Committee. The proposal is to eliminate one national officer, the office of the National Second Vice President, and to expand the number of Regional Vice Presidents from four to six, two assigned to PPQ and four assigned to CBP.
2. The proposal is to permit an expansion of the National Executive Committee by adding up to five new voting members (subject to subsequent approval of the bargaining unit) so as to provide specific voting representation to discrete constituencies within CBP and PPQ. For example, the Executive Committee might elect to expand the Executive Committee by adding a representative for newly recognized bargaining unit positions.
3. The National Executive Committee will continue to examine the geographical representational areas assigned to each Regional Vice President. The proposed geographical areas of representation for CBP and for PPQ are set forth on the attached map.
4. NAAE also needs sufficient flexibility to address any changes that may be necessary as a result of the regulations DHS is expecting to issue next month adopting an entirely new personnel system for all employees of CBP. NAAE will be conducting an election over the next 60 days and may find the results of that election affected in some way by the content, as yet unknown, of the new personnel regulations DHS will be issuing.
5. The Executive Committee wants to make it more economically feasible for members of the bargaining unit, particularly those in the lower grades, to belong to and participate in NAAE. Accordingly, the Executive Committee is proposing to permit the assessment of union dues on a graduated scale so as to accommodate Technicians and other lower graded employees who are members of the bargaining unit. Rest assured of two things. First, the maximum dues anyone will be asked to pay will not exceed the current dues, \$7.50 per pay period, without another amendment of the Bylaws, and second, every dues-paying member of NAAE will receive **equal** representation on all matters coming before the National Executive Committee and the NAAE locals.

6. The National Executive Committee wants to make sure that each major component of the bargaining unit, CBP and PPQ, has its own direct contacts with the National Executive Committee and that a smooth path of communication exists between the local level and the Regional Vice Presidents as part of the duties of the Regional Vice Presidents.

Please review each of these seven proposed Bylaw amendments. Each has been approved by the National Executive Committee and now requires your approval as well. The national election for the Executive Committee, to be conducted during the next 60 days, is predicated upon the new regional vice president and national office structure encompassed in these Bylaws amendments. If these amendments fail to pass, a re-election may be necessary.

Sincerely,



Michael Randall
President

cc: Kim D. Mann, Esquire, General Counsel

By-laws Amendments SAMPLE BALLOT

1. Shall the NAAE by-laws be amended to provide the following?

NAAE NATIONAL EXECUTIVE COMMITTEE

The NAAE National Executive Committee shall be composed of ten (10) representatives effective at the close of the 2004 National Convention, consisting of (A) four (4) National Officers elected at-large from the entire membership by the entire membership:

1. National President
2. National Vice President
3. National Treasurer
4. National Secretary

and (B) two (2) Regional Vice Presidents from the Plant Protection and Quarantine Bargaining Unit, each residing in the geographical area to be represented and elected by vote of the PPQ union members comprising that geographical area:

1. PPQ Eastern Region Vice President

2. PPQ Western Region Vice President

and (C) four (4) Regional Vice Presidents from the Customs and Border Protection Bargaining Unit, each residing in the geographical area to be represented and elected by vote of DHS/CBP union members comprising that geographical area:

- 1. CBP Eastern Region Vice President
- 2. CBP Northern Region Vice President
- 3. CBP Southern Region Vice President
- 4. CBP Western Region Vice President.

_____ **YES** _____ **NO**

.....
2. Shall the NAAE by-laws be amended to provide the following?

SIZE OF THE EXECUTIVE COMMITTEE

The National Executive Committee may have up to fifteen (15) voting members. Executive Committee membership may be increased or decreased from its current size by a two-thirds vote of the entire Executive Committee, subject to ratification of the members attending the next National Convention. Expansion is authorized only for just cause, including in order to increase representation for other bargaining units or new constituencies.

_____ **YES** _____ **NO**

.....
3. Shall the NAAE by-laws be amended to provide the following?

REALIGNMENT OF REPRESENTATION

The National Executive Committee shall have the responsibility of periodically realigning the geographical representational areas of the Regional Vice Presidents to insure proper and effective representation. No duly elected or appointed Regional Vice President shall be displaced from office by a realignment occurring during his or her term.

_____ **YES** _____ **NO**

.....
4. Shall the NAAE by-laws be amended to provide the following?

INVALID ELECTIONS

In the event that no National Officer is eligible to take office at the end of the National Convention or changes in the law or similar circumstances occur between the dates of the election and the National Convention that invalidate the election results, the out-going National Officers shall remain in their elected positions until official completion of a new election, commenced within thirty (30) days of the event invalidating the prior election.

_____ **YES** _____ **NO**

.....

5. Shall the NAAE by-laws be amended to provide the following?

GRADUATED SCALE OF DUES

The National Executive Committee shall be authorized to set up a proportionate and sliding scale of dues withholding, not to exceed \$7.50 per payperiod, based upon the principle that lower graded employees may be assessed a dues rate lower than higher graded employees.

_____ **YES** _____ **NO**

.....

6. Shall the NAAE by-laws be amended to provide the following?

COMMUNICATION WITH THE EMPLOYER

Upon organization of a new National Executive Committee, the Executive Committee shall assign one Executive Committee member from each component of the bargaining unit (currently PPQ and CBP) the responsibility of serving as the point of contact for Management communications and notices of change on matters affecting the national level. This responsibility shall include forwarding these Management notices and communications to all other National Executive Committee members. In the event the designated contact person is no longer willing or able to perform his or her function, the National Executive Committee shall promptly appoint a temporary or permanent replacement.

_____ **YES** _____ **NO**

.....

7. Shall the NAAE by-laws be amended to provide the following?

DUTIES OF REGIONAL VICE PRESIDENTS

Regional Vice Presidents shall serve as primary contacts and sources of assistance for their constituencies' local representatives, hardship transfer requests, and bargaining unit members' requests for assistance beyond the local level. They shall serve as primary links between constituent locals and the National Executive Committee, gathering and disseminating information as needed, shall canvass locals and engage in regional consultations with Regional and Local Management as necessary, shall regularly report to the National Executive Committee on significant activities, shall assist with the demands of other regions when other regional representatives are absent, and shall assist with other Executive Committee activities at the request of the National Executive Committee.

_____ **YES** _____ **NO**

NEW CBP REGIONAL VICE PRESIDENT REGIONS

SOUTHERN REGION			
Tucson Douglas Lukeville Naco Nogales Phoenix San Luis Sasabe Tucson	El Paso Albuquerque Columbus, NM El Paso Fabens Presidio Progreso Santa Teresa	Laredo Austin Brownsville Del Rio Eagle Pass Hidalgo Laredo Rio Grande City Roma San Antonio	San Diego Andrade Calexico Otay Mesa San Diego San Ysidro Tecate
NORTHERN REGION			
Buffalo Albany Alexandria Bay Buffalo Champlain Massena Ogdensburg Rochester, NY Syracuse Trout River	Chicago Astabula/Conneaut Chicago Cincinnati Cleveland Columbus, OH Davenport Dayton Des Moines Erie Fed-Ex Hub, Indianapolis Ft. Wayne Green Bay Indianapolis Kansas City Louisville Milwaukee	Chicago Minneapolis Omaha Owensboro/Evansville Peoria Racine Rochester, MN Rockford Sioux Falls Spirit of St. Louis Airport Springfield, MO St. Louis Toledo Wichita	Detroit Battle Creek Bay City/Saginaw/Flint Detroit Grand Rapids Port Huron Sault Sainte Marie
Seattle Aberdeen Ambrose Anacortes Antler Baudette Bellingham Blaine Butte Carbury Crane Lake Danville Del Bonita Duluth Dunseith Eastport, ID Ely Everett Fargo Ferry Fortuna Friday Harbor Frontier Grand Forks Grand Marais	Seattle Grand Portage Great Falls Hannah Hansboro International Falls Lancaster Laurier Lynden Maida Metaline Falls Minot Morgan Moses Lake Neche Nighthawk Noonan Northgate Opheim Oroville Pembina Piegan Pinecreek Point Roberts Port Angeles	Seattle Port Townsend Portal Porthill Ranier Raymond Roosville Roseau Sarles Scobey Seattle Sherwood Spokane St. John, ND Sumas Sweetgrass Tacoma Turner Walhalla Warroad Westhope Whitetail Whitlash Wildhorse Station	Preclearance Aruba Bermuda Calgary Dublin, IRE Edmonton Freeport, Bahamas Montreal Nassau Ottawa Shannon, IRE Toronto Vancouver Victoria, B.C. Winnipeg

EASTERN REGION

Atlanta

Atlanta
Brunswick
Charleston, SC
Charleston, WV
Charlotte
Columbia
Georgetown
Greenville/Spartansburg
Morehead City
Myrtle Beach
Newport News
Norfolk
Raleigh-Durham
Richmond
Savannah
Wilmington, NC
Winston-Salem

Baltimore

Alexandria
Baltimore
Harrisburg/Middletown
Hartford
Philadelphia
Pittsburgh
Washington, D.C.
Wilmington, DE

Boston

Bangor
Boston
Bradley Int'l Airport
Bridgeport
Burlington
Calais
Derby Line
Eastport, ME
Ft. Fairfield
Ft. Kent
Gloucester
Highgate Springs
Houlton
Jackman, ME
Limestone
Lubec
Madawaska
New Bedford
New Haven
Norton
Portland, ME
Providence
Richford
Springfield, MA
St. Albans
Van Buren
Vanceboro
Worcester

Miami

Ft. Lauderdale
Key West
Miami Airport
Miami Seaport
West Palm Beach

New Orleans

Baton Rouge
Birmingham
Chattanooga
Gramercy
Gulfport
Huntsville
Knoxville
Lake Charles
Little Rock
Memphis
Mobile
Morgan City
Nashville
New Orleans
Pascagoula

New York

New York, JFK
New York, Newark
Perth Amboy

San Juan

San Jose
Aguadilla
Charlotte Amalie
Fajardo
Mayaguez
Ponce
San Juan
Shreveport
St Thomas
St. Croix
St. John, VI
Vicksburg

Tampa

Fernandina Beach
Ft. Myers
Jacksonville
Orlando
Panama City
Pensacola
Port Canaveral
Port Manatee
Sanford Regional
Airport
St. Petersburg
Tampa

WESTERN REGION

Houston

Amarillo
Corpus Christi
Dallas/Ft Worth
Freeport, TX
Houston
Lubbock
Midland Airport
Oklahoma City
Port Arthur
Tulsa

Los Angeles

Las Vegas
Los Angeles/LAX
Los Angeles/
Long Beach

Portland

Alcan
Anchorage
Astoria
Boise
Broomfield
Casper
Coos Bay
Dalton Cache
Denver
Denver Int'l Airport
Dutch Harbor
Englewood
Eureka
Fairbanks
Fedex Hub, Anchorage
Int'l Airport, Anchorage

Portland

Juneau
Ketchikan
Kodiak
Longview
Newport
Northway
Poker Creek
Portland, OR
Sitka
Skagway
UPS, Anchorage
Valdez
Wrangell

San Francisco

Fresno
Hilo-Kona
Honolulu
Kahului
Port Allen
Reno
Salt Lake City
San Francisco

The following testimony regarding the proposed DHS Personnel System was delivered before joint Senate-House Subcommittees on February 25th--

STATEMENT OF MICHAEL E. RANDALL, PRESIDENT, NATIONAL ASSOCIATION OF AGRICULTURE EMPLOYEES BEFORE THE HOUSE SUBCOMMITTEE ON CIVIL SERVICE AND AGENCY ORGANIZATION AND THE SENATE SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

February 25, 2004

“NAAE” The National Association of Agriculture Employees represents the Legacy Agriculture bargaining unit personnel split between DHS and USDA in March 2003. We continue to represent employees in both as a rank-and-file union. We can make comparisons of the two communication styles and management between APHIS-PPQ and CBP. We can see the “before” and “after”. As President of NAAE, I would like to share our experiences with the Subcommittee as they relate to the proposed DHS Personnel System.

Development of the DHS Personnel System Proposal, to this point, has been a collaborative process among Management, Labor and select specialists. NAAE devoted 15% of its small staff of our rank-and-file union leaders to a nearly 100% effort on the process. In viewing the results, we believe we were heard in certain areas, particularly in position classification, an area with a history of difficulty for us--Legacy-Customs and Immigration Inspectors have a journeyman level of GS-11; our journeyman level is a GS-9. We didn't expect to be 100% satisfied customers; however, we never suspected just how disappointed we would be. DHS and OPM need to materially modify their proposal if they intend to provide a humane system and environment that will address the needs of our specialty in the Department's mission and be fair to our bargaining unit employees.

The proposed DHS Personnel System will not attract and maintain a highly skilled and motivated workforce for performing Agriculture Quarantine Inspection functions. That presages disaster for DHS's mission to the extent it encompasses protecting American agriculture and food supply.

In order to make sweeping changes in the personnel system and be successful in accomplishing DHS's missions, the Department will need “buy-in” from the employees. Unfortunately, given Customs and Border Protection's refusal to adhere to the personnel system by which it has been obligated to abide since March 2003 and its evident lack of desire to improve the lot of our agriculture bargaining unit employees through purely administrative actions it could have taken. We do not because we cannot **trust** CBP or DHS in their roll-out of a new personnel system.

Pay and Classification

Parity among all employee components has been CBP's public cry; inequality has been the result. Legacy-Agriculture employees have Title V based workweek scheduling (and premium pay) systems that are negotiable, while the other two Legacy agencies have special non-negotiable statutory pay systems. In this past year, CBP has implemented (unilaterally and without negotiations) draconian scheduling changes resulting in inequalities in pay and degraded working conditions for Legacy agriculture employees as compared to their new co-workers, Legacy INS and Customs. More importantly, CBP scheduling actions also have resulted in the failure to meet the agriculture protection mission. Employees have been spread thin with new schedules and work has been left undone as CBP cancels necessary overtime work to “save money.” Spreading the employees thin and canceling necessary quarantine work does not surprise us. These decisions are now routinely made by Legacy INS and Customs supervisors who view the Agriculture mission as secondary or non-existent. Nothing makes agriculture inspection employees angrier than not being able to protect American agriculture, the sole reason they signed on as federal employees in the first place. Result: we lack **trust**.

DHS's pay-banding proposal provides the employee a pay bundle as one unit. A private sector job-family comparison may set the base, and a performance determined “award” share composes the balance. Agriculture inspectors are fearful of this performance component. Last year, CBP inserted other Legacy agency managers (from INS and Customs) into the front-line agriculture reporting chain. Many Legacy agency managers from the other agencies have demonstrated and continue to show disdain and disregard for the agriculture protection mission.

These managers are now in our performance evaluation food chain. As Agriculture inspectors know, a bit of bad food in the food chain causes Mad Cow. We do not **trust**.

NAAE is concerned about the concept of proposed “pay pools” to be used in determinations of the distribution of award amounts. As work units are unequal in size, there will always be disparities apparent in the pay pools between work units from the vantage point of the employees deprived of an equal share. The Department should be mindful of this fact and not rely upon a unit’s “overall contribution to the mission.” It may not be an employee’s own fault that he or she is in a location that doesn’t contribute as much.

Just on the mechanical level of getting employees paid, we are skeptical. We doubt the Department and its paymasters can or will get this multi-scale, multi-level pay system, with its per-individual differences, working in any fair way. CBP has already demonstrated a lasting inability to get paychecks to employees in a timely manner. It took months for CBP to correct seemingly simple pay problems that left some of our employees unpaid, not even a cent, for over a month. Some employees have not been paid correctly to this date. “**Trust** us, we’ll pay.” I don’t think so.

Last week, a Miami manager communicated to all port employees in the largest work unit with Legacy Agriculture employees that the system to track the Congressionally mandated overtime pay cap “wasn’t working so well” and confessed that CBP could not tell how much overtime each employee had worked. The manager gave the order through a unit-wide broadcast e-mail that all employees above a certain earnings level were immediately prohibited from working overtime until such time as the employee “has a consultation with me.” They were directed to, “Please bring all of your pay statements with you so we can verify the amount you have earned thus far.” Attached to this widely distributed e-mail was a table of all of the employees’ names correlated with their Social Security numbers and their corresponding pay earnings to date- this is a serious Privacy Act violation--an demonstrates why grievance rights need to be preserved. Let’s see if we **trust** you. No way!

We believe the proposed pay system is attempting to fix too many things at once. We are still feeling the effects in government of an earlier attempt of the early 1990s to fix pay, the Federal Employee’s Pay Comparability Act. The Agency could have gotten things “right” or quite a bit closer to getting things “right”, but there was not the will...or the funds. Will there be sufficient funds put into this pay effort to allow proper administration? Based upon past evidence, we doubt it. Proper funding will be key to making any system like this work. Proper performance evaluation will be a key in making the performance based system credible.

We believe certain components of the proposed pay system are worth noting as positive additions. We are supportive of the occupational cluster concept as it relates to classification issues. This treatment of classification should be curative of some of the problems NAAE experienced in USDA—the rigid Factor Evaluation System and the OPM Classification regulations. Agriculture inspectors are generalists. There are many different tasks they must perform and perform well to accomplish the agriculture protection mission. The current system rewards a specialist with higher pay and penalizes a generalist, even if the generalist is more highly valued and needed. Many agriculture inspectors were downgraded from GS-11 to GS-9 after an OPM classification review resulted in the “generalist penalty” being applied.

Other positives in the pay arena are special rates of pay, recruiting and retention bonuses, and payment for special skills. Some of the areas we need more detail in include the concept of basing pay rates upon local conditions in the private labor markets. We are particularly concerned with “captive labor markets” such as Hawaii (particularly to me—Honolulu is where I work.) A requests for a raise in Hawaii is usually met with, “If you don’t like your pay, go to the Mainland.” Another concern requiring further explanation is the formulae for setting base pay by examination of other labor market conditions. If the economy is in a recession, can the employees be put into recession too?

We are pleased DHS plans to initiate a pilot phase of the system on a number of managers. Of course, these managers do not have unions. Where will their grievances be lodged? Will there be honest feedback on the system? This remains to be seen. “You will **trust** us.” To be determined.

Labor Management Relations

The proposed DHS Personnel System places employees in a militaristic system, one not at all appropriate for the civilian labor force. The System for all intents and purposes cancels the rights and protections of the Civil Service Reform Act and its intention to have Labor provide necessary feedback in betterment of government programs.

Formal Meetings

A union right that is paramount is the right to be present a formal meetings-- meetings where Management discusses working conditions with the employees. DHS has chosen to propose to abolish this right. This is the classic by-pass of the union. An excuse given in the regulation docket is that "managers might not know when a meeting is a formal meeting and if they should get it wrong it is at the manager's legal peril." We can offer no explanation for the origin of this regulation, except from our experience over the past year. CBP is not interested in communicating with the union or employees. CBP is interested in one-way communication top to bottom. We cannot see how this attitude will help in the defense of the country. Border inspectors, agriculture inspectors are the nation's eyes and ears. They need to provide feedback on what they hear and see. They need resources to perform their work. Resources that often are obtained by unions (DHS proposed prohibitions upon negotiations will make sure this never happens again.) Instead, CBP employees have been given reason to fear speaking out. They are being separated from their union. DHS states that unions still might attend meetings. What the docket does not say is "*if permitted*". Rank-and-file union officers would be subject to a work assignment to "stay away." Congress did not give DHS the right to create a new Department where employees have to testify to the inadequacies of their Agency shrouded by a curtain. This union by-pass tactic is an old management method of control. Let's not repeat the errors that other Agencies committed. Open speech-- **internally** on the program, open speech for the employees and their union.

Unit Determinations

At NAAE we have difficulty reconciling the possible outcomes of determination of "an appropriate unit" and its likely effect upon our bargaining unit of agriculture inspectors. The regulation calls for an emphasis upon recognition of the organizational structure of the Agency in determining "an appropriate unit." NAAE is concerned that DHS will define as "an appropriate unit" a single inspectional unit comprised of all Legacy Agriculture, Customs, and INS officers and inspectors. NAAE believes that placing the agriculture inspection workforce within the Customs line operation under Customs' control and Customs supervision, as it currently is, is irrational. This **dreadful mistake** will not become apparent until there is some serious outbreak of agricultural pestilence, aided and abetted by this faulty management structure. Such a serious outbreak is inevitable. It is only a matter of time under this "one unit" management concept. Practically all Legacy Agriculture management above the level of GS-12 have been separated from their employees. These agriculturally schooled managers have been shipped off to departments with names like Administration, Enforcement, Intelligence, etc., often promised little opportunity (or forbidden) to utilize their agriculture expertise. The few Legacy Agriculture managers placed in port positions with wider scope of authority in a port, such as a Port Director, can exert little direct control over the day-to-day lives of the agriculture employees who were formerly part of their cohesive agriculture port unit.

The probable outcome of a unit determination will be the end of agriculture inspectors representing agriculture inspectors and the agriculture mission interest. Instead, this agriculture job specialty may be represented, under the "appropriate unit" theory, by another union whose primary interest is armed law enforcement employee representation. NAAE is convinced that DHS intends to use the "an appropriate unit" license to the detriment of the interests of our unarmed, science educated professionals performing regulatory compliance work designed to protect American Agriculture.

Official Time

NAAE is pleased that official time provisions remain nearly identical as provided in the current Statute. The time-tested provisions prove that Congress was not wrong in the original Civil Service Reform Act. We only wish that the Department had taken the course of utilizing some of the other tried-and-true provisions of the Act.

"Negotiations"

Prohibitions upon negotiations extend to Employee Deployment and New Technology. These prohibitions on bargaining are so expansive in scope they effectively preclude any meaningful negotiations, including anything classified as "work." Bars on negotiations over "deployment" exclude most actions employees could perform involving a verb, ANY verb. What is not classifiable as a "deployment?" Not much if anything.

Bars upon negotiating "new technology" could preclude negotiations upon almost any item an employee touches. When I asked DHS specifically about safety issues arising from an introduction of new radiation producing

detection equipment, the response was “The intention is to prohibit negotiations upon the introduction of any and all new technology.” I just wanted to know if the bargaining unit could get some information about the safety parameters of new machinery; negotiation gives us the right to know. No negotiations, no right to learn. The flat out prohibition upon bargaining takes that right away.

This past weekend I received an urgent communication from a bargaining unit employee asking for union help. She is about to be “excessed.” Her work unit anticipates a reduction in force for all part-time employees. The words and the actions of the local Officer in Charge leave no doubt that the employees will be “riffed.” My reading of the personnel system proposal says that the impact of lay-offs would be negotiable. NAAE has not heard from CBP Labor Relations about any reduction-in-force. When will CBP tell NAAE about the reduction in force? After the employees are gone? You don’t have to **trust** us about anything you don’t have to know about.

This ban on negotiations is totally overkill. We have had successful negotiations in USDA over the years regarding “deployment” issues. Those issues surround even **emergency** temporary duty for agricultural pest outbreaks at many locations in the country in all types of weather and working conditions. These emergency assignments typically come with little to no advanced notice. In USDA, we have negotiated protocols for getting employees to these emergency hot-spots quickly. We have dealt with and adequately addressed impact and implementation issues associated with such matters as single parents having to leave home, childcare needs, employee desiring to increase their professional skills by taking additional coursework, and planned leave. Dealing with these type issues makes a difficult but necessary situation more bearable. None of our negotiations has ever interfered with an emergency temporary duty deployment. All negotiations were in anticipation; they were done in advance and provided Management with adequate flexibility. Preventing negotiations upon “deployment” puts these negotiations out of bounds.

Department policies cannot be negotiated for impact and implementation. We strongly suspect the Department will just cloak all subordinate policies with the “Departmental” label, thus avoiding negotiations. There are no meaningful tools to prevent this abuse.

We are all for speeding up the process of negotiations to agreement, but not at the expense of real, meaningful negotiations. Speed for speed sake will undercut due process and destroy confidence in the fairness of the system.

The proposed regulations offer to allow negotiations if and only if changes have a “substantial effect” upon the appropriate unit. This escape route gives DHS Management regulatory license to ignore these employees comprising a minority of a large bargaining unit, and those affected solely because they are in a professional specialty occupation employing few individuals. We fear the CBP Agriculture Specialist may be deemed in the “ignore” category. Would negotiations on medical accommodations find a place on the barred negotiations list? It just may, it might depend upon how many people get sick. Would it not be a “substantial” part of “an appropriate unit.”

Consultation and collaboration are good, but if differences are not settled by agreement or understanding, talk remains cheap. Many issues have been resolved when there are good communications. Good communication, especially *prior* to changes, can resolve myriad issues for the Agency and the employees. The proposed regulations do not provide adequately for this necessary component of dispute resolution. The negotiation prohibitions are the last straw.

During our first year with CBP, CBP management showed little to no interest in complying with the existing law and regulations regarding labor relations. CBP continually violated a FLRA mediated settlement agreement we reached previously with USDA. The agreement required negotiations to occur prior to implementation of any change in shifts or tours of duty. Undersecretary Janet Hale issued a memo clearly stating that this and other pre-DHS agreements were binding upon DHS Management. Nevertheless, CBP insisted upon implementing without negotiating and offered only “post-implementation bargaining.” Negotiations have yet to occur despite numerous requests. In another instance, CBP wanted to implement use of radiation detectors immediately and offered “post-implementation bargaining.” NAAE does not have any problem with radiation detectors. We wanted to know the protocol for use and safety. CBP “hadn’t worked that out yet,” we were told. We also wanted to know what if any steps need to be taken to protect employee health, if or when employees contact a certain amount of radiation. CBP didn’t know. We can’t say CBP didn’t care, but we are the ones that eventually had to call the company and talk to the designer of the equipment to find out the problems and solutions for our safety concerns. The foolish thing about this incident is that *CBP didn’t even have radiation detectors on inventory* to pass out to all employees. This is clearly a time when the Agency could have negotiated “new technology;” it

would not have hurt or delayed anything, and it didn't have to be "post-implementation." These proposed new prohibitions seem designed to perpetuate lack of open communication between the parties through a total ban. Communication solves problems.

In the interest of promoting dialogue and communications, NAAE has retracted a number of unfair labor practice charges this year it has had to file in the face of CBP's refusal to negotiate before implementation. However, a number of the most egregious violations remain under FLRA investigation.

We have worked tirelessly with CBP when the Agency asserts an individual item relates to national security. But when the Agency asserts that practically everything is "national security", we must raise a jaundiced eye. Most recently, CBP is preventing NAAE from obtaining a regular list of the names of our own bargaining unit members and the locations where they work. This is a long-observed contract requirement and is standard practice in federal labor relations. CBP irrationally asserts it is a national security item. They claim the List might "fall into the wrong hands." Does CBP not want NAAE to know who the employees we represent are? Does CBP not want NAAE to know where the employees we represent work? We presume CBP could easily print out this information from a computer. Presumably, it has the payroll list of employees and knows who came over from USDA-APHIS. NAAE will be forced to make up this list by hand. The Agency does not **trust** us. What an insult!

Even when CBP does not assert national security, it implements countless changes without negotiating, occasionally offering "post-implementation" bargaining. This is another way to say, "we really don't want to negotiate with labor and the employees it represents; we spit on your contract and agreements. It does not please the king." CBP, a law enforcement agency, should observe the law, not flaunt it.

Now DHS would change the rules to legalize all CBPs transgressions. This is not a confidence booster.

Adverse Action

Recently, I provided some emergency long-distance counsel and advice to an employee who had become involved in an ethics question, a question I had dealt with before in USDA—an employee purchase (at market price) from a vendor we regulate at an airport site (If the practice were totally illegal, CBP employees could not fly on airlines and Agriculture inspectors could not eat imported food.) USDA's answer would be a hand slap and a promise from the employee to "not do it again." CBP's procedure was quite different, I still do not know what discipline will be meted out. Our fears are the worst; CBP has expended too many resources in pursuing the employee. It will now be a matter of justifying the investigation expenditure, or investigator pride. CBP Internal Affairs investigators descended upon the employee and ordered the employee into a formal meeting. The employee was afforded Weingarten union representation rights. The employee's representative was present. The employee was read Kalkines Rights, and the employee was *Mirandized*. The employee made a statement to the investigators and the employee was presented an affidavit to sign. There were glaring inaccuracies in the statement and the employee requested to redact the statement. The investigator told the employee that it was an "*administrative matter*" and the employee was illegally ordered to sign the statement *as is*. The on-site union representative did the best he could with his limited experience in disciplinary matters. He implored the investigators to permit the employee to redact the statement with employee's legal counsel, away from the investigators. This was not allowed. The investigator admitted in the middle of the process that he wasn't sure which regulation and procedure to follow, but that he had to proceed "the way he knew how." In fact, certain calls to me and NAAE's General Counsel were made with the investigator insisting upon staying in the room. The employee was forced to stay in the presence of the investigator while preparing the redactions. Getting the investigator to even accept the concept of redactions of a sworn statement was like pulling teeth. The investigator had never heard of such a thing before. The employee left after signing a heavily redacted statement. Is Miranda the new standard in intimidation of employees for "purely administrative matters?" Will a Mirandized employee be prevented from obtaining legal counsel?

Above we detailed a hand slap type infraction, now we examine the routine and mundane. Agriculture inspectors have a tough job. We inspect without warrant and we informally seize agriculture products or items that may be injurious to American Agriculture. Often we seize gifts of food being brought by passengers from other countries. These gifts may be a forgotten taste of home for an immigrant or a new citizen. These may be the only gifts travelers bear as food is the most inexpensive commodity. Taking these food items may bring anger and resentment upon the inspector, often in the form of letters of complaint. USDA had an administrative process to deal with such complaints. This USDA process was fair to the employee and provided a minimum amount of disruption and anxiety for the employee. A common complaint takes the form of "Your Inspector took my salami and stuff his

face.” Of course the inspector didn’t eat the salami, it was incinerated or steam sterilized—destroyed. The inspector likely would not even remember the passenger. CBP has a different approach to this common problem; it must send out an Internal Affairs team to see if the inspector looks like he or she has been consuming salamis (never mind if the inspector buys them on his or her own.)

Limited Representation in Investigations

The proposed regulations provide that representatives of the Office of Inspector General, Office of Security, and Office of Internal Affairs are “not representatives of the Department for this purpose.” Our experience thus far is that **ALL** investigations in CBP are Internal Affairs investigations. NAAE vigorously opposes turning our employees over to these lion’s dens. Especially in view of investigator behavior cited above. Do DHS Agriculture employees deserve to have lessened rights by virtue of the fact of their transfer to DHS? No!.

We fear the onslaught of the new disciplinary apparatus. NAAE supports full judicial review being available to our employees in an effort to reclaim the rights of employees. Fully 90% of disciplinary actions NAAE has chosen to defend as a union have been reversed, often with the admonishment to Management from the arbitrator or FLRA “Wrong, wrong, wrong!” Justice should be served not reserved.

Limitations on MSPB

The MSPB will only be insuring EEO and Prohibited Personnel Practice rights. Any other case defect or finding of insufficient fact may result in a remand to DHS’s own disciplinary board. MSPB cannot mitigate penalties in these remand cases. NAAE is very concerned about this new limitation upon MSPB. We believe in many instances that this will prevent MSPB from getting at root causes. Insufficient evidence cases and “only partly guilty” will be returned to the Department only to have the heretofore uncharged “tripping over the shoelaces charge” reserved by DHS Management for just such an occasion tossed into the disciplinary mix. Where is justice?

Performance Improvement

DHS has proposed to eliminate the PIP, performance improvement period. The pip requirement formalizes communication and memorializes that communication happen. The regulation contemplates taking the disciplinary/conduct action without having communicated with the employee while adding in a few possibilities for communication. How is this supposed to help and cultivate a loyal and knowledgeable workforce? We believe this proposal is ripe for abuse, and it will be abused routinely—discipline without communication—the new standard.

Excepted Service

NAAE is opposed to the requirement of an excepted service period of two years for our career Agriculture Biological Technician staff who desire to advance within CBP. Excepted Service is merely a two-year “honorary employee” status. More than 500 technician employees, loyal workers, transferred to CBP from USDA in March 2003. These employees have been given little direction or encouragement from CBP Management as to what their fate shall be under CBP. In USDA, these technicians were an essential part of the baggage clearance operation. They assisted Agriculture inspectors in operation of the baggage screening X-Ray machinery, data processing, contraband destruction, laboratory maintenance as well as a host of other functions. In CBP the message is there is no usefulness to this function. These employees have been given a distinct non-professional uniform, denied the opportunity to obtain a security clearance (this forbids touching any computer they formerly used as USDA employees), told that “they will be leaving the baggage room” (to work unknown) and given veiled directions out the door. Many of these long-time employees do not have the required agriculture college training to become CBP Agriculture Inspectors. There may only be one way for these employees may advance should CBP feel they are “redundant”—and that will be to apply for jobs as CBP Officers. Most Agriculture Bio-technicians could qualify as CBP Officers, but there is a hitch: they must apply to a job announcement and compete as if they are applying from the street as if they never worked for the government. No internal announcements for merit hiring. Not only this. They must be treated as an honorary employee for two years. This hiring method does not treat “family” as family. The Agency is already abusing the two-year probationary concept and applying it in ways it should never be applied.

The Future?

Many of these proposed personnel system changes will cement the foundations of an authoritarian, law enforcement workplace. Agriculture work is regulatory enforcement; compliance from the public is sought, not extracted. Agriculture work requires that input be taken from the field. Changes in a scientifically sound program must be suggested, observed, and tested from the field, the front line. These things cannot be dictated from central control, particularly from CBP management dominated by former Customs managers who have zero training, experience or understanding of the Agriculture mission and no desire to learn. The employees as well as their communication vehicle, the Union, need to provide feedback and exchange ideas with Management on how best to carry out the programs and freely without fear of intimidation or criticism. This is how our agriculture protection services worked in USDA. This is not how our agriculture protection services are working in CBP. The communications are absent; the atmosphere is chilled. Experienced career employees with an Agricultural mission to protect and uphold are afraid to speak out. Their performance evaluations will hang in jeopardy over their pay. The adverse action system and its proposed very limited appeals rights are too easy for a Management to abuse in retaliation.

Our history with CBP tells us the concern for work and family life for the betterment of the employees and the mission is out the door.

DHS needs experienced professional, scientifically schooled Agriculture inspectors to continue the agriculture protection mission. It will not succeed should DHS/CBP decide to replace these inspectors with generic law-enforcement types. Many Agriculture inspectors have been offended by the CBP management style. They are being chased away from the Agency. Career change is at the center of discussion with many long-term employees not yet at the retirement threshold.

350 vacancies transferred from USDA last March have burgeoned into well over 500 vacancies to date. We do not wonder why. The proposed new personnel system, unless drastically overhauled and humanized, guarantees these vacancies will only grow in number.

With communication, trust can be built. Without communication there is no trust and the system fails. There are a number of “keepers” in the proposal; however, there is too much in the proposal that thwarts communication and kills mutual respect and trust. The Department would be wise to return to the standards and values set by the joint Management, Union and Employee Design Team and carefully review the words and the “fit” of the proposed regulations to the standards, rather to rely upon a management agenda. All reviewers should see that there are some major “fit” problems with these proposals.

NAAE thanks you for the opportunity to present this testimony. We hope that it provides insight into some of the problem areas and positives in the new personnel system proposal. We hope our testimony will help lead to discussions on a personnel system the American People, the Department and the employees all can live with and will assist the Committees in further discussions of oversight of the Agricultural protection mission in CBP.

Respectfully,



Michael E. Randall, President
National Association of Agriculture Employees



REQUEST FOR PAYROLL DEDUCTIONS FOR LABOR ORGANIZATION DUES

Privacy Act Statement

Section 5525 of Title 5 United States Code (Allotments and Assignments of Pay) permits Federal agencies to collect this information. This completed form is used to request that labor organization dues be deducted from your pay and to notify your labor organization of the deduction. Completing this form is voluntary, but it may not be processed if all requested information is not provided.

This record may be disclosed outside your agency to: 1) the Department of the Treasury to make proper financial adjustments; 2) a Congressional office if you make an inquiry to that office related to this record; 3) a court or an appropriate Government agency if the Government is party to a legal suit; 4) an appropriate law enforcement agency if we become aware of a legal violation;

5) an organization which is a designated collection agent of a particular labor organization; and 6) other Federal agencies for management, statistical and other official functions (without your personal identification).

Executive Order 9397 allows Federal agencies to use the social security number (SSN) as an individual identifier to avoid confusion caused by employees with the same or similar names. Supplying your SSN is voluntary, but failure to provide it, when it is used as the employee identification number, may mean that payroll deductions cannot be processed.

Your agency shall provide an additional statement if it uses the information furnished on this form for purposes other than those mentioned above.

1. Name of Employee <i>(Print or Type-Last, First, Middle)</i>	2. Employee Identification Number <i>(SSN or Other)</i>	3. Timekeeper Number
4. Home Address <i>(Street Number, City, State and ZIP Code)</i>	5. Name of Agency <i>(Include Bureau, Division, Branch or Other Designation)</i> <input type="checkbox"/> <input type="checkbox"/>	

Section A-For Use By Labor Organization

Name of Labor Organization *(Include Local, Branch, Lodge or Other Appropriate Identification)*

I hereby certify that the regular dues of this organization for the above named member are currently established at \$ _____per	(biweekly pay period) (calendar month). <i>(Strike out whichever period is not appropriate, based on arrangement with the employee's agency.)</i>
Signature and Title of Authorized Official	Date <i>(Month, Day, Year)</i>

Section B-Authorization By Employee

I hereby authorize the above named agency to deduct from my pay each pay period, or the first full pay period of each month, the amount certified above as the regular dues of the (Name of Labor Organization):

_____ and to remit such amount to that labor organization in accordance with its arrangements with my employing agency. I further authorize any change in the amount to be deducted which is certified by the above named labor organization as a uniform change in its dues structure.

I understand that this authorization, if for a biweekly deduction, will become effective the pay period following its receipt in the payroll office

of my employing agency. I further understand that Standard Form 1188, Cancellation of Payroll Deductions for Labor Organization Dues, is available from my employing agency, and that I may cancel this authorization by filing Standard Form 1188 or other written cancellation request with the payroll office of my employing agency. Such cancellation will not be effective, however, until the first full pay period which begins on or after the next established cancellation date of the calendar year after the cancellation is received in the payroll office.

Contributions or gifts (including dues) to the labor organization shown at left are not tax deductible as charitable contributions. However, they may be tax deductible under other provisions of the Internal Revenue Code.

Signature of Employee	Date <i>(Month, Day, Year)</i>	
FOR COMPLETION BY AGENCY ONLY- The above named employee and labor organization meet the requirements for dues withholding. (Mark the appropriate box. If "YES", send this form to payroll. If "NO", return this form to the labor organization.)	YES	NO

YOUR NATIONAL NAAE REPRESENTATIVES
(Your Input & Feedback Is Most Welcome)
PLEASE MAIL ALL DUES WITHHOLDING FORMS TO NAAE NAT'L
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