

October 4, 2016

Chairman Richard Moore
National Environmental Justice Advisory Council
Office of Environmental Justice
U.S. Environmental Protection Agency [Mail Code 2201A]
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Submitted electronically via:

Richard Moore, NEJAC Chair, ljnewmexico@gmail.com

Matthew Tejada, Designated Federal Officer, Tejada.Matthew@epa.gov

Karen L. Martin, NEJAC Program Manager, Martin.Karenl@epa.gov

Dear Chairman Moore and Members of the National Environmental Justice Advisory Council:

As farmworker and farmworker advocacy organizations, we are writing to encourage the National Environmental Justice Advisory Council (NEJAC) to assist in protecting environmental justice communities of farmworkers and their families from exposure to toxic pesticides by supporting a robust implementation and enforcement of the 2015 revised Agricultural Worker Protection Standard (WPS).

We applaud the Environmental Protection Agency's (EPA's) work to adopt these strengthened regulations, and encourage the Agency to continue to oppose attempts by Congress to weaken this important standard which was adopted after many years of research, deliberation and extensive public comment.

It is critical that these stronger regulations are fully and effectively implemented, which requires the direct involvement of farmworkers and their communities in several critical areas.

Among the most important provisions in the revised WPS is the requirement for annual training of farmworkers on a broader range of pesticide hazard protection topics, including their rights to file pesticide safety complaints. The EPA has already awarded large contracts for the development of training materials and programs. The importance of this provision cannot be overstated.

Our recommendation to the Agency is that:

- All materials and programs should be developed using best practices for public and occupational health education, including direct constituency involvement in the creation of materials and programs, and pilot testing with farmworkers before finalization;
- Resources be committed to actively involve farmworkers in the development and pilot testing of training materials and programs to assure that these are understandable and effective in practice, and are culturally and linguistically appropriate;
- Regional meetings be convened to solicit input directly from farmworkers;

- Farmworker-based organizations should be contracted to conduct focus groups of farmworkers to review and revise materials under development.

The issue of workers' rights under the WPS should be a primary feature of any new outreach and training materials. In particular, workers should be fully informed about how to report a violation of their rights and protections in their state, that they have a right to receive information about the pesticides applied in their workplace, and that they have the right to designate someone to request and receive information about the pesticides they were exposed to during the previous two years. The designated representative provision of the new WPS has been challenged. Hence, this new provision under the WPS must be clearly understood by state enforcement agencies, and there must be a concerted effort by EPA to ensure that states are clear on the parameters of this regulation and that they have a plan for adequate enforcement and protection of this right of the workers.

The WPS' Application Exclusion Zones (AEZs) provision, designed to protect from exposure anyone within an area immediately surrounding the site of an application as it is being conducted, is also essential. We urge the NEJAC to recommend the Administration take the necessary steps to ensure the states fully implement and effectively enforce the WPS's AEZ requirements in order to protect farmworkers, their families and rural communities from exposure during pesticide applications.

Specifically, we recommend that:

- EPA require that states apply these protections to workers and their families within housing, child care centers or other structures within an AEZ;
- Before implementing any policy advising farmworkers or other individuals to shelter within their housing during a pesticide application as a means to avoid exposure, EPA must assess the safety and feasibility of such a policy compared to alternatives.

Finally, in order to facilitate adequate enforcement of the WPS, EPA must ensure that state enforcement agencies have established procedures for receiving and investigating WPS complaints, and that such procedures are clearly communicated to farmworkers and farmworker service providers. A well-established procedure should be required for states to receive EPA funding for enforcement.

The NEJAC is strategically placed to bring these critical environmental justice issues, which for too long have not been on the Agency's radar screen, to the attention of the EPA Administrator and to the Agency so that the voices of the otherwise voiceless in rural agricultural communities around the country can be heard at some of the highest levels of decision making on environmental justice issues.

In conformance with the NEJAC's mandate and on behalf of disproportionately affected farmworker environmental justice communities around the country, we urge you to make the recommendations listed above to the Administrator on behalf of the Council to ensure that this long-awaited and important new regulation is effectively implemented, and the health and wellbeing of farmworkers and their families are truly protected. Any follow-up questions about the letter should be directed to NEJAC member Mily Trevino-Saucedo.

Thank you very much.

Sincerely,

Agricultural Justice Project
ALBA - Agriculture and Land-Based Training Association, California
Alianza Nacional de Campesinas, Inc.
Border Agricultural Workers Project, Texas
California Rural Legal Assistance Foundation, California
Campesinos Sin Fronteras, Arizona
CATA - El Comité de Apoyo a los Trabajadores Agrícolas/The Farmworker Support
Committee, New Jersey
Centro Binacional para el Desarrollo Indígena Oaxaqueño (Binational Center for the
Development of Oaxacan Indigenous Communities), California y Mexico
Centro de los Derechos del Migrante, Inc. (CDM), U.S. y Mexico
Columbia Legal Services, Washington
Earthjustice
East Coast Migrant Head Start Project, North Carolina
Farmworker Advocacy Network, North Carolina
Farmworker Association of Florida, Florida
Farmworker Justice, Washington, DC
Farmworker Self-Help, Florida
Global Workers Justice Alliance, New York
Greater Rochester Coalition for Immigration Justice, New York
Kids for College, New York
Migrant Clinicians Network
MICOP – Mixteco/Indígena Community Organizing Project, California
Migrant Farmworker Justice Project, Florida Legal Services, Florida
Mujeres Campesinas Unidas de Florida
Multicultural Efforts to End Sexual Assault (MESA)
National Farm Worker Ministry
North Carolina Justice Center, North Carolina
Organización en California de Líderes Campesinas, Inc., California
Pesticide Action Network North America, California
Pineros y Campesinos Unidos del Noroeste, Oregon
Student Action with Farmworkers, North Carolina
Toxic Free North Carolina, North Carolina
United Farm Workers
Wayne Action for Racial Equality, Sodus, New York
Worker Justice Center, New York
Youth and Young Adult Network – National Farm Worker Ministry