

Beyond Pesticides * California Rural Legal Assistance Foundation * Coalition of Immokalee Workers * Earthjustice * Farmworker Association of Florida * Farmworker Justice * Farmworker Self-Help * Hispanic Federation * Kentucky Environmental Foundation * Labor Council for Latin American Advancement * League of United Latin American Citizens * Migrant Clinicians Network * Migrant Farmworker Justice Project * National Hispanic Medical Association * National Latino Coalition on Climate Change * Pesticide Action Network of North America * Pineros y Campesinos Unidos del Noroeste /Northwest Tree Planters and Farm Workers United * United Farm Workers

February 14, 2013

Lisa P. Jackson, Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: *Follow-up to November 2011 Petition to Revise Worker Protection Standard Under F.I.F.R.A.*

Dear Ms. Jackson:

The undersigned organizations submit this letter regarding the long-overdue revisions to the Worker Protection Standard (“WPS”) of the Federal Insecticide, Fungicide and Rodenticide Act (“FIFRA”)¹. In November 2011, Earthjustice and Farmworker Justice submitted a petition to the Environmental Protection Agency (“EPA”) on behalf of several of the undersigned organizations, asking the EPA to propose, issue and implement revisions to the WPS without further delay (“Petition”). The Petition called on the Agency to use the revisions to correct the dual standard that now penalizes farmworkers—the overwhelming majority of whom are Latino² and poor³—who receive far weaker workplace protections than workers in better paid and predominantly white industrial sectors. Specifically, the Petition asked that the EPA bring the protections of the WPS—which have not been meaningfully updated in over twenty years—up to the standards that safeguard workers in non-agricultural employment sectors whose safety is overseen by other federal agencies. And it explained why EPA is legally obligated to make these changes to the WPS under both FIFRA and Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations). Despite the compelling need to update the WPS and EPA’s legal obligation to take measures to protect vulnerable farmworkers who are the population most exposed to pesticides, the EPA has not given any response to the Petition, and we are not aware of any EPA actions to formally propose a rule revising the WPS. The original petitioners are joined by allies in the labor, Latino, farmworker and environmental community as we write to renew our call for EPA to swiftly publish a proposed rule revising the WPS to include at least [the protections outlined in the Petition](#).

EPA’s inaction is unacceptable given that farmworkers’ persistent exposure to harmful pesticides and ineffectual enforcement of the current WPS has resulted in an average of 57.6 out of every 100,000 agricultural workers experiencing acute pesticide poisoning, illness or injury each year—and many of these poisoned workers are complying with the current version of the WPS, proving its inadequacy.⁴ Indeed, over a decade ago, EPA itself recognized this problem, acknowledging that “even with maximum

feasible personal protective equipment and engineering controls, including all provisions required by the Worker Protection Standard (WPS), risks to workers still exceed EPA's levels of concern.”⁵ EPA’s acknowledgement – while shocking given the Agency’s decade-long failure to rectify the situation – is well-founded. Moreover, the data on the number of poisoned workers excludes the many workers who suffer chronic health problems such as cancer, infertility, and neurological disorders, including Parkinson’s disease, as a result of pesticide exposures,⁶ and does not factor in the known under-reporting of pesticide poisonings and illnesses.

In sum, EPA has violated its legal and moral duty to protect farmworkers from being exposed to significant levels of toxic pesticides on the job. EPA must stop merely expressing its concern, and take meaningful steps to protect these workers, who are critical to the economy of the nation, from the pesticides they handle, including, at a minimum, adopting the safeguards we identify in the Petition. For these reasons, we urge EPA to publish a proposed rule revising the WPS without further delay.

To respond to this letter, please contact Eve C. Gartner at egartner@earthjustice.org and Virginia Ruiz at vruiiz@farmworkerjustice.org.

Sincerely,

Beyond Pesticides
California Rural Legal Assistance Foundation
Coalition of Immokalee Workers
Earthjustice
Farmworker Association of Florida
Farmworker Justice
Farmworker Self-Help
Hispanic Federation
Kentucky Environmental Foundation
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Migrant Farmworker Justice Project
National Hispanic Medical Association
National Latino Coalition on Climate Change
Pesticide Action Network of North America
Pineros y Campesinos Unidos del Noroeste/Northwest Tree Planters and Farm Workers United
United Farm Workers

cc: Steven Bradbury, Director, OPP
Lawrence Elworth, Agricultural Counselor to the Administrator
Lisa H. Garcia, Senior Advisor on Environmental Justice
Sarah Hospodor-Pallone, Deputy Associate Administrator, OCIR
Jack Housenger, Director, HED
William Jordan, Deputy Director, OPP
Richard Keigwin, Director, PRD
Robert McNally, Director, FEAD
Lois Rossi, Director, RD

¹ 7 U.S.C. § 136, et seq.

² DANIEL CARROLL ET AL., OFFICE OF PROGRAMMATIC POLICY, U.S. DEP'T OF LABOR, RESEARCH REPORT NO. 9, FINDINGS FROM THE NATIONAL AGRICULTURAL WORKER SURVEY (NAWS) 2001-2002: A DEMOGRAPHIC AND EMPLOYMENT PROFILE OF UNITED STATES FARMWORKERS 3 (2005), available at http://www.doleta.gov/agworker/report9/naws_rpt9.pdf (78% of all U.S. farmworkers are foreign-born, with 75% of the farmworkers born in Mexico); Thomas A. Arcury et al., *Repeated Pesticide Exposure Among North Carolina Migrant and Seasonal Farmworkers*, 53 Am. J. Indus. Med. 802, 806 (2010) (89% of farmworkers in Eastern North Carolina did not speak English, with nearly 23% speaking an indigenous language).

³ CARROLL, *supra* note 2, at 47 (for the two calendar-year period 2000-2001, the average individual income range for farmworkers was \$10,000 - \$12,499; the average total family income range was \$15,000 - \$17,499).

⁴ Geoffrey M. Calvert et al., *Acute Pesticide Poisoning Among Agricultural Workers in the United States, 1998 – 2005*, 51 [AM. J. INDUS. MED.](#) 883, 890 (2008). To put this rate into context, it is in the same order of magnitude as the annual incidence rate of breast cancer in the United States. See *Age-Adjusted Breast Cancer Incidence and Mortality Rates for 2008 for 32 countries, Organized by Region of the World, Participating in the ICSN*, NATIONAL CANCER INSTITUTE (2008), available at <http://appliedresearch.cancer.gov/icsn/breast/mortality.html> (includes data showing that the breast cancer incidence rate in the U.S. is 76 per 100,000); see also Calvert, *supra*, at 894 (data from the 1999 National Agricultural Workers Survey conducted by the United States Department of Labor shows that, during a one-year period, over 3% of crop workers were directly exposed to pesticides being sprayed, blown or spilled on them, or were directly exposed to pesticides while cleaning or repairing equipment used for applying or storing these chemicals. Of those workers, over 43% reported getting sick or having a reaction such as numbness or tingling, eye problems, or nausea and vomiting.).

⁵ *Pesticide Registration Notice 2000-9*, U.S. ENVTL. PROTECTION AGENCY, at 3, (Sept. 29, 2000), available at http://www.epa.gov/PR_Notices/pr2000-9.pdf.

⁶ See note 38, *infra*.