

Beyond Pesticides, California Rural Legal Assistance Foundation, Californians for Pesticide Reform, Campesinas Unidas de Tulare County, Center on Race Poverty and the Environment, Centro Campesino, Coalition for Clean Air, Coalition of Immokalee Workers, El Comité de Apoyo a los Trabajadores Agrícolas, El Quinto Sol de America, Environment California, Environmental Youth Council, Farm Labor Organizing Committee, Farm Worker Pesticide Project, Farmworker Association of Florida, Farmworker Justice, Farmworker Self-Help, Just Transition Alliance, Lideres Campesinas, National Farmworker Ministry, Pesticide Action Network North America, Physicians for Social Responsibility - Los Angeles, Pineros y Campesinos Unidos del Noroeste, Silicon Valley Toxics Coalition, South Texas Colonia Initiative, Southern Poverty Law Center, The Farmworker Health and Safety Institute, United Farm Workers, AFL-CIO

June 18, 2009

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building (AR)  
1200 Pennsylvania Avenue N.W.  
Washington DC 20004

Dear Administrator Jackson:

We are writing you about the health of farmworkers and farmworker communities with deep concerns about the agency's May 27, 2009 decision to continue the use of highly hazardous pesticide fumigants. We believe that it is misleading to characterize the decision as adequately addressing the agency's historical and inhumane neglect of toxic pesticide effects on farmworker community health. This policy seriously misses the mark in protecting farmworkers communities, specifically pregnant farmworker women and farmworker children. The policy continues an outdated EPA approach to pesticide regulation that adopts unrealistic and unenforceable standards as risk mitigation measures, in an age of safer, greener approaches to agricultural pest management. We believe the decision simply does not mesh with your and the administration's interest in pursuing sound and protective environmental justice policy. To the contrary, the fumigants policy reflects perspectives and approaches of the past when officials too willingly and unnecessarily compromised the health of farmworkers and their families.

We would like to raise these issues with you now because the limitations inherent in this decision are symptomatic of a pesticide regulatory approach that puts the interest of unnecessary chemical-dependent agricultural practices ahead of the lives of farmworkers, their children and communities. In this context, the agency has an opportunity under current law to inject reality into its decisions, curtail the uses of chemicals that should have been phased out years ago, and advance sustainable management practices that have been shown to be commercially viable.

While there are many details and specifics in the policy that we would like to discuss with you further, we would like to highlight several elements that raise serious environmental justice deficiencies and reflect deeper problems with EPA's current and past approach to toxic pesticide regulation. The deficiencies include (i) a clear lack of enforceable standards of protection, (ii) opportunities through exclusions and waivers that will result in unacceptable hazards to farmworker children and families, and (iii) an inadequate transparency, disclosure, and monitoring of chemical use and farm management plans.

**The fumigants policy is unenforceable and therefore not protective.** One of the key elements that has characterized pesticide program decisions is the writing of pesticide product labels that simply cannot be enforced, given on-the-ground realities and the lack of resources available to the responsible state enforcement agencies and EPA. The fumigant decision elevates, rather than addresses, an ongoing disconnect between label restrictions and daily practices that put farmworkers and farmworker communities in harm's way. Some of the requirements include restrictions on wind speed, aeration techniques, buffer zone evacuation, public and worker notice, among others, that are virtually impossible to enforce. Other provisions, such as a lack of fumigant management plan certification and weak public notice provisions, ultimately undermine real protection. Given the unenforceability, pesticide poisoning will continue as a daily reality.

**Disproportionate risk to farmworker communities.** One of the key elements of the fumigant policy, the establishment of buffer zones to eliminate unacceptable exposure, is undermined by the provision that allows farmworkers to live and farmworker children to play in buffer zones. This is a convoluted standard that requires those living in the area, primarily farmworkers, to sign a waiver if the land is outside "the control of the owner/operator." The policy sets up a situation that invites intimidation, shifts the burden of protection to the families that agree to leave their homes during treatment periods, and undermines the notion of a protective zone set aside to protect public health. Do we as a matter of policy want to ask families of farmworkers to choose between a safe home for their families and employment on the farm? Will families have adequate information to make an informed choice on signing the waiver? Should they be asked to make such a choice? Is this a policy approach that EPA wants to apply to all communities –to ask people to leave their homes voluntarily during periods of toxic releases? Or is this type of policy reserved for farmworker and underserved communities? Similarly, streets that do not have sidewalks, allowed in the buffer zones, are areas in which children play and farmworkers travel and will be subject to acknowledged hazardous pesticide drift.

The final fumigants policy, as announced last year, actually contained additional provisions, not included in the new policy, that recognized the seriousness of the waiver and voluntary evacuation provision. It required air monitoring before reentry to the site. It added another layer of complexity that while addressing the hazardous nature of the situation also raised additional issues of enforceability.

In the end, the fumigants policy establishes a dangerous precedent that threatens the health of farmworkers and their families. We urge you to reconsider this proposal in the context of sound environmental justice policy, but also in light of the availability of green and organic approaches to crop production for all of the crops that would be affected by the necessary action to phase out hazardous pesticides and protect farmworkers and their families.

We trust that you view this matter with the same seriousness that we do and therefore look forward to your reply and further discussion with you at your earliest convenience.

Sincerely,

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