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Via Federal eRulemaking Portal (http://www.regulations.gov)
and Overnight Mail

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Re: Petition to Protect Children From Pesticide Drift: Notice of Availability
EPA-HQ-OPP-2009-0825
Pesticides: Draft Guidance for Pesticide Registrants on Pesticide Drift Labeling
EPA-HQ-OPP-2009-0628

Dear Directors Bradbury and Keigwin:

The undersigned organizations submit this letter in support of the Petition to Protect Children From Pesticide Drift (the “Kids’ Petition”), filed October 14, 2009, and to comment on the
Pesticide Registration Notice regarding pesticide drift labeling and the accompanying guidance (the “Labeling Notice”). The undersigned organizations urge the Environmental Protection Agency (“EPA”) to take immediate protective action by establishing no-spray buffers around areas where children congregate while EPA fully evaluates and protects against pesticide drift exposures to children. This petition asks EPA to take these immediate steps to comply with its legal duty, under the Food Quality Protection Act (FQPA), Executive Order on Children’s Health and the Environmental Justice Executive Order, to protect all children from all pesticide drift exposures.

I. EPA HAS FAILED TO PROTECT CHILDREN FROM EXPOSURE TO TOXIC PESTICIDES THAT DRIFT FROM AGRICULTURAL FIELDS AND CONTAMINATE AREAS WHERE CHILDREN CONGREGATE, SUCH AS HOMES, PARKS, SCHOOLS, AND DAYCARE CENTERS.

Children are especially vulnerable to harm from pesticides because they are growing and developing, eat and drink more per body weight than adults, consume large amounts of certain foods, and engage in activities that increase their exposure such as frequently putting hands or objects into their mouths. Drifting pesticides can cause acute poisonings as well as cancer, long-term reproductive and developmental disorders, and other chronic adverse effects. EPA has long recognized that pesticide drift—from spray and aerial applications or from pesticide volatilization—is a threat to innocent bystanders such as children:

EPA’s position on pesticide drift is that applicators must not allow pesticide spray or dust to drift from the application site and contact people, animals, and certain sensitive sites, including structures people occupy . . . , parks and recreation areas, nontarget crops, aquatic and wetland areas, woodlands, pastures, or rangelands.¹

EPA has responsibilities under federal law to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure” to pesticides, including pesticide drift exposures, and to ensure that its pesticide programs do not have a disproportionate impact on minority and low-income populations.²

Unfortunately, EPA has failed to assess children’s exposures to pesticides that drift from agricultural sites to homes, schools, daycares, parks, and other places where children may be

exposed. By failing to assess the risk to children who are exposed to agricultural pesticide drift, EPA maintains a double standard that may provide some protections for kids from pesticides used in urban and residential settings, but leaves kids who live near agricultural sites unprotected and vulnerable to pesticide drift. In failing to protect these forgotten children, EPA has violated federal law.

For example, in 2000 EPA prohibited most home and residential uses of a nerve toxin—chlorpyrifos, heralding the decision as “particularly good news for children, who are among the most vulnerable to the risks posed by pesticides.” However, EPA ignored and continues to disregard the harm to kids in or near agricultural communities when chlorpyrifos drifts from farms and contaminates the air at nearby schools, homes, parks, and daycare centers.

II. EPA’S FAILURE TO PROTECT CHILDREN FROM PESTICIDE DRIFT IS INCONSISTENT WITH EPA’S OBLIGATIONS TO CONSIDER ENVIRONMENTAL JUSTICE CONCERNS.

Pesticide drift has disproportionate impacts on children from low income households. On average, a farmworker family earned an annual income ranging from $15,000 to $17,499 in 2003. In the top five agricultural counties in Texas (the state with the most acres of agriculture), between 10 to 30 percent of children live below the poverty line. Likewise, in California (the top agricultural state by revenue) between 24 to 32 percent of children under the age of 17 live in poverty in the top three agricultural counties (compared with the state average poverty rate of 12.4%).

Pesticide drift also has disproportionate impacts on children in minority populations. The vast majority of U.S. farmworkers are of Latin American origin—approximately 83 percent are of

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3 EPA, Human Health Risk Assessment: Chlorpyrifos, at 3-10 (June 2000).
4 E.g., Farm Worker Pesticide Project & Pesticide Action Network North America, Poisons on the Wind: Community Air Monitoring for Chlorpyrifos in the Yakima Valley (Dec. 2006); Pesticide Action Network North America, Air Monitoring for Chlorpyrifos in Lindsay, California (July 2006).
5 National Center for Farmworker Health, Migrant and Seasonal Farmworker Demographics (2009).
7 Alice Larson, Migrant and Seasonal Farmworker Enumeration Profiles Study: California (Sept. 2000).
Latin American ancestry. A majority of these farmworkers have children, and these children live and go to school near the agricultural sites where their parents work. For example, in California over 73 percent of children attending schools within 1.5 miles of sites where at least 10,000 pounds of pesticides were applied in 1998 were non-white. Similarly, in 2008 approximately 53 percent of students in Washington State’s top five agricultural counties were non-white (the statewide average was 31 percent).

EPA recently recognized these facts when it found farmworkers and their children to be a particularly sensitive subpopulation to the dangers of pesticide drift.

III. EPA MUST FULLY EVALUATE DRIFT RISK FOR ALL KIDS AND MUST IMMEDIATELY IMPLEMENT PROTECTIVE BUFFERS.

EPA must fully evaluate drift risks for all pesticides that have the potential to move from agricultural sites to areas where children congregate, such as homes, parks, schools, and daycare centers. The evaluation must encompass applications of pesticides by ground sprayers, broadcast equipment, and aerial equipment, all of which have the potential to drift from application sites during and immediately after application. EPA’s assessments also must evaluate inhalation, oral, and dermal exposures to both spray drift and volatilization drift. Based on these assessments, EPA must limit or prohibit pesticide uses that result in children being exposed to unsafe levels of pesticide particles or vapors.

Further, EPA must correct its violations of the FQPA and executive orders more quickly than the current set of pesticide registration reviews, which are not scheduled to be completed until 2022. Twelve years is far too long to allow children to be exposed to pesticide drift without any EPA assessment of the risks posed to kids.

To protect children while it conducts the necessary drift exposure assessments and develops pesticide-specific protective measures, EPA should impose no-spray buffer zones for dangerous drift-prone pesticides of at least 60 feet for ground applications and 300 feet for aerial applications.

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applications around homes, schools, parks, daycare centers, and other places where children congregate. EPA and other experts have recognized that such buffer zones are an effective method in reducing risks associated with pesticide drift. These buffers should apply to organophosphates, n-methyl carbamates, and all other pesticides that are (1) registered for application by ground sprayers, broadcast equipment, and/or aerial equipment; and (2) suspected of causing acute poisonings, cancer, endocrine disruption, developmental effects, and/or reproductive effects. The buffers suggested in the Kids’ Petition should be the absolute minimum buffers with larger buffers implemented where EPA finds that the toxicity and/or tendency to drift are high.

IV. THE PROPOSED GENERAL LABEL WARNINGS, WHILE WELCOME, ARE NOT ADEQUATE ALONE TO PROTECT CHILDREN FROM PESTICIDE DRIFT.

EPA has long recognized that generalized label direction is inadequate to protect innocent bystanders such as children from pesticide drift. For decades, EPA has required pesticide labels to include general admonitions to avoid spray drift. For example, the Worker Protection Standard (“WPS”) regulations contain a provision, similar to that which EPA now proposes to apply more widely, generally requires pesticide users to “assure that no pesticide is applied so as to contact, either directly or through drift, any worker or other person . . . .” 12 Even with such general label directions, EPA found that numerous poisoning incidents were occurring each year and the current drift labeling was “inconsistent or inadequate and for many products unclear to applicators and others.” 13 Therefore, while the undersigned organizations are not opposed to EPA’s proposed language changes in the Labeling Notice, such label changes are not protective of children without also implementing the buffer requirements requested here and in the Kids’ Petition.

CONCLUSION

The undersigned individuals and organizations fully support the Petition to Protect Children From Pesticide Drift (the “Kids’ Petition”), filed October 14, 2009, and urge the Environmental Protection Agency (“EPA”) to take immediate protective action by establishing no-spray buffers

12 40 C.F.R. § 170.210(a).

around areas where children congregate while EPA fully evaluates and protects against pesticide drift exposures to children in compliance with its obligations under FQPA and Executive Order.

Sincerely,

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