

Arizona Physicians for Social Responsibility • BURNT • Californians for Alternatives to Toxics • Center for Biological Diversity • Center for Environmental Health • Citizens For a Clean Environment, Inc. • Clean New York • Clean Water Action • Environment and Human Rights Advisory • Farmworker Association of Florida • Farmworker Legal Services of New York, Inc. • Galveston-Houston Association for Smog Prevention & Mothers for Clean Air • Greenpeace USA • Farmworkers' Support Committee (CATA) • Farmworker Health and Safety Institute • Jacobs Farm / Del Cabo • Lawyers' Committee for Civil Rights Under Law • Legal Aid Services of Oregon • Lewis & Clark Law School National Lawyers Guild • Los Angeles Physicians for Social Responsibility • Louisiana Environmental Action Network • Lower Mississippi Riverkeeper • Maine Organic Farmers and Gardeners Association • Migrant Clinicians Network • Michigan Migrant Legal Assistance Project, Inc. • Migrant Support Services of Wayne Co. • Minnesota Center for Environmental Advocacy • Natural Resources Defense Council • No Spray Nashville • North Carolina Environmental Justice Network • Northwest Atlantic Marine Alliance • Northwest Coalition for Alternatives to Pesticides • Northwest Environmental Defense Center • Oregon Toxics Alliance • Pesticide Watch Education Fund • Public Employees for Environmental Responsibility (PEER) • Public Citizen's Congress Watch • Rachel Carson Council, Inc. • Rochesterians Against the Misuse of Pesticides (RAMP) • Sacramento Physicians for Social Responsibility • San Francisco Bay Area Physicians for Social Responsibility • Santa Fe Physicians for Social Responsibility • Sierra Club • Southern Poverty Law Center • Stop the Spray East Bay • TEDX (The Endocrine Disruption Exchange) • Veterans-For-Change • Wayne Action for Racial Equality • Washington Toxics Coalition • Western North Carolina Physicians for Social Responsibility • Worksafe, Inc.

March 4, 2010

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

Steven P. Bradbury
Acting Director
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code: 7501P
Washington, D.C. 20460-0001
[bradbury.steven@epa.gov]

Richard P. Keigwin, Jr.
Director
Pesticide Re-evaluation Division
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code: 7508P
Washington, D.C. 20460-0001
[keigwin.richard@epa.gov]

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

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 2

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, PARK, 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

¹ EPA, Pesticide Registration (PR) Notice 2001-X Draft: Spray and Dust Drift Label Statements for Pesticide Products.

² 21 U.S.C. § 346a(b)(2)(A)(ii); see also 21 U.S.C. § 346a(b)(2)(C)(vi) and Exec. Order No. 12,898, 59 Fed. Reg. 7,629 (Feb. 11, 1994).

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 3

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,³ 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.⁴

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 2003.⁵ 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.⁶ 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%).⁷

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

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).

⁶ United States Department of Agriculture, 2007 County-Level Poverty Rates for TX (Dec. 2008).

⁷ Alice Larson, Migrant and Seasonal Farmworker Enumeration Profiles Study: California (Sept. 2000).

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 4

Latin American ancestry.⁸ 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.⁹ 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).¹⁰

EPA recently recognized these facts when it found farmworkers and their children to be a particularly sensitive subpopulation to the dangers of pesticide drift.¹¹

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

⁸ United States Department of Labor, The National Agricultural Workers Survey (Oct. 2006).

⁹ Environmental Working Group, Every Breath You Take: Airborne Pesticides in the San Joaquin Valley (Jan. 2001).

¹⁰ School Data Direct, District-by-District Query, available at <http://www.schooldatadirect.org/>.

¹¹ EPA, Revised Risk Assessment Methods for Workers, Children of Workers in Agricultural Fields, and Pesticides With No Food Uses, Office of Pesticide Programs, December 7, 2009, EPA-HQ-OPP-2009-0889-0002[1].pdf.

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 5

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).

¹³ EPA, Pesticide Registration (PR) Notice 2001-X Draft: Spray and Dust Drift Label Statements for Pesticide Products.

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 6

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,

Barbara H. Warren, MD, MPH
Coordinator
Arizona Physicians for Social Responsibility
3653 N. Prince Village Pl.
Tucson, AZ 85719
520-325-3983
bwarre01@pol.net

Caroline Cox
Research Director
Center for Environmental Health
2201 Broadway, Suite 302
Oakland, CA 94612-3017
510-655-3900 ext. 308
caroline@ceh.org

Mr. Bruce Wood
President
BURNT
P.O. Box 128555
Nashville, TN 37212
615-327-8515
burnt.tn@gmail.com

Cynthia Wilson
Coordinator/Events Organizer
Citizens For a Clean Environment, Inc.
135 North St.
Cobleskill, NY 12043
518-234-4227
crwilson@capital.net

Patricia Clary
Executive Director
Californians for Alternatives to Toxics
315 P St.
Eureka, CA 95501
707-445-5100
patty@alt2tox.org

Kathleen A. Curtis, LPN
Policy Director
Clean New York
323 Bonnyview Lane
Schenectady, NY 12306
518-708-3922
clean.kathy@gmail.com

Justin Augustine
Staff Attorney
Center for Biological Diversity
351 California St., Suite 600
San Francisco, CA 94104
415-436-9682 ext. 302
jaugustine@biologicaldiversity.org

Lynn Thorp
National Campaigns Coordinator
Clean Water Action
1010 Vermont Ave., N.W., Suite 1100
Washington, D.C. 20005
202-895-0420 ext. 109
lthorp@cleanwater.org

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 7

Tom Kerns, Ph.D.
Director
Environment and Human Rights Advisory
P.O. Box 927
Yachats, OR 97498
541-547-3700
tkerns@environmentandhumanrights.org

Jeannie Economos
Pesticide Safety and
Environmental Health Project Coordinator
Farmworker Association of Florida
1264 Apopka Blvd.
Apopka, FL 32703
407-886-5151
farmworkerassoc@aol.com

Lewis Papenfuse
Executive Director
Farmworker Legal Services of New York, Inc.
1187 Culver Rd.
Rochester, NY 14609-5448
585-325-3050 ext. 12
lpapenfuse@wnylc.com

Matthew Tejada, Ph.D.
Executive Director
Galveston-Houston Association for Smog
Prevention & Mothers for Clean Air
2311 Canal St., Suite 326
Houston, TX 77003
713-528-3779
tejada@ghasp.org

Rick Hind
Legislative Director
Greenpeace USA
702 H St., N.W.
Washington, D.C. 20001
202-462-1177
rick.hind@greenpeace.org

Nelson Carrasquillo
General Coordinator
Farmworkers' Support Committee (CATA)
Board Member
Farmworker Health and Safety Institute
P.O. Box 510
Glassboro, NJ 08028
856-881-2507
fhsi@aol.com

Larry Jacobs
Chief Executive Officer
Jacobs Farm / Del Cabo
P.O. Box 508
Pescadero, CA 94060
650-879-0580
info@jacobsfarm.com

Daria E. Neal
Senior Counsel, Environmental Justice Project
Lawyers' Committee for Civil Rights Under
Law
1401 New York Ave., N.W., Suite 400
Washington, D.C. 20005
202-662-8600
dneal@lawyerscommittee.org

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 8

Shelley Latin
Legal Aid Services of Oregon
P.O. Box 1327
Pendleton, OR 97801
541-276-6685 ext. 208
shelley.latin@lasoregon.org

Brandon McNamee
Lewis & Clark Law School National Lawyers
Guild
10015 S.W. Terwilliger Blvd.
Portland, OR 97219
503-545-9301
mcnamee@lclark.edu

Martha Dina Arguello
Executive Director
Los Angeles Physicians for Social
Responsibility
617 S. Olive St., Suite 810
Los Angeles, CA 90014
213-689-9170
marguello@psr-la.org

Marylee M. Orr
Executive Director
Louisiana Environmental Action Network
162 Croydon Ave.
Baton Rouge, LA 70806-4501
225-588-5059
www.lean007@aol.com

Paul Orr
Lower Mississippi Riverkeeper
P.O. Box 66323
Baton Rouge, LA 70896
225-928-1315
paul@lmrk.org

Heather Spalding
Associate Director
Maine Organic Farmers and Gardeners
Association
294 Crosby Brook Rd.
Unity, ME 04988
207-568-4142
heathers@mofga.org

Karen Mountain MBA, MSN, RN
Chief Executive Officer
Migrant Clinicians Network
P.O. Box 164285
Austin, TX 78716
512-327-2017
kmountain@migrantclinician.org

Teresa Hendricks
Director/Senior Litigator
Michigan Migrant Legal Assistance Project,
Inc.
648 Monroe Ave. N.W., Suite 318
Grand Rapids, MI 49503
616-454-5055
thendricks@mmlap.com

John L. Ghertner, M.D.
Coordinator
Migrant Support Services of Wayne Co.
6055 Robinson Rd.
Sodus, NY 14551
585-733-3171
nghertner@verizon.net

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 9

Samuel C. Yamin, MPH
Public Health Scientist
Minnesota Center for Environmental Advocacy
26 E. Exchange St., Suite 206
St. Paul, MN 55101
651-223-5969
syamin@mncenter.org

Jennifer Sass, Ph.D.
Senior Scientist
Natural Resources Defense Council
1200 New York Ave., N.W., Suite 400
Washington, D.C. 20005
202-289-6868
jsass@nrdc.org

Rachel Summer
Lead Volunteer
No Spray Nashville
P.O. Box 128555
Nashville, TN 37212
615-327-8515
nospraynashville@earthlink.net

Gary Grant
Executive Director
North Carolina Environmental Justice Network
P.O. Box 61
Tillery, NC 27887
252-826-3017
NCEJN1@aol.com

Niaz Dorry
Coordinating Director
Northwest Atlantic Marine Alliance
P.O. Box 360
Windham, ME 04062
978-281-6934
niaz@namanet.org

Kim Leval
Executive Director
Northwest Coalition for Alternatives to
Pesticides
P.O. Box 1393
Eugene OR 97440-1393
541-344-5044 ext. 15
kleval@pesticide.org

Mark Riskedahl
Executive Director
Northwest Environmental Defense Center
10015 S.W. Terwilliger Blvd.
Portland, OR 97219
503-768-6673
mark@lclark.edu

Dona Hippert
President
Oregon Toxics Alliance
1192 Lawrence St.
Eugene, OR 97401
541-465-8860
dhippert@worldstar.com

Paul S. Towers
State Director
Pesticide Watch Education Fund
1107 - 9th St., Suite 601
Sacramento, CA 95814
916-551-1883
paul@pesticidewatch.org

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 10

Jeff Ruch
Executive Director
Public Employees for Environmental
Responsibility (PEER)
2000 P St., N.W., Suite 240
Washington, D.C. 20036
202-265-7337
jruch@peer.org

David Arkush
Director
Public Citizen's Congress Watch
215 Pennsylvania Ave., S.E.
Washington, D.C. 20003
202-454-5130
darkush@citizen.org

Dr. Diana Post
President
Rachel Carson Council, Inc.
P.O. Box 10779
Silver Spring, MD 20914
301-593-7507
RCCouncil@aol.com

Judy Braiman
President
Rochesterians Against the Misuse of Pesticides
(RAMP)
50 Landsdowne Lane
Rochester, NY 14618
585-383-1317
judybraiman@frontiernet.net

Harry Wang, M.D.
President
Sacramento Physicians for Social
Responsibility
10 Dumfries Court
Sacramento, CA 95831
916 955-6333
info@sacpsr.org

Robert Gould, M.D.
President
San Francisco Bay Area Physicians for Social
Responsibility
2288 Fulton St., Suite 307
Berkeley, CA 94704
510-845-8395
action@sfbaypsr.org

Robert M. Bernstein, M.D.
President
Santa Fe Physiciaians for Social Responsibility
1533 Saint Francis Dr.
Santa Fe, NM 87505
505-984-0170
rbern007@cybermesa.com

Ed Hopkins
Director, Environmental Quality Program
Sierra Club
408 C Street, N.E.
Washington, D.C. 20002
202-675-7908
ed.hopkins@sierraclub.org

Steven P. Bradbury
Richard P. Keigwin, Jr.
March 4, 2010
Page 11

Daniel Werner
Deputy Legal Director
Southern Poverty Law Center
233 Peachtree St., Suite 2150
Atlanta, GA 30303
404-221-5834
daniel.werner@splcenter.org

Nan Wishner
Steering Committee Member
Stop the Spray East Bay
504 San Carlos Ave.
Albany, CA 94706
530-467-3069
nan@undoingyoga.com

Theo Colborn, Ph.D.
President
TEDX (The Endocrine Disruption Exchange)
P.O. Box 1407
Paonia, CO 81428
970-527-4082
tedx@tds.net

Jim Davis
President
Veterans-For-Change
11901 Samuel Dr.
Garden Grove, CA 92840-2546
714-983-4919
jim.davis@veterans-for-change.com

John L. Ghertner, M.D.
Coordinator
Wayne Action for Racial Equality
6055 Robinson Rd.
Sodus, NY 14551
585-733-3171
nghertner@verizon.net

Erika Schreder
Staff Scientist
Washington Toxics Coalition
4649 Sunnyside Ave. N., Suite 540
Seattle, WA 98103
206-632-1545 ext. 119
eschreder@watoxics.org

Lewis E. Patrie, M.D., Chair
Western North Carolina Physicians for Social
Responsibility
99 Eastmoor Dr.
Asheville, NC 28805
828-299-1242
patrie.wncpsr@main.nc.us

Gail Bateson
Executive Director
Worksafe, Inc.
171 - 12th St., Suite 300
Oakland, CA 94607
510-302-1011
gbateson@worksafe.org

cc: Marty Monell
Deputy Office Director for Management
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code: 7501P
Washington, D.C. 20460-0001
[monell.marty@epa.gov]