

Subcommittee on Environment and Climate Change
Hearing on
“Mismanaging Chemical Risks: EPA’s Failure to Protect Workers”
March 13, 2019

Mr. Giev Kashkooli, United Farm Workers

The Honorable Frank Pallone, Jr. (D-NJ)

- 1. In the days following your testimony, EPA moved forward again on a rulemaking to revise the application exclusion zone. What is the application exclusion zone and what impact would that rulemaking have on farmworkers, their families, and their communities?**

RESPONSE:

The Environmental Protection Agency (EPA) included stronger language in the 2016 revisions to the Agricultural Worker Protection Standard (“WPS”), establishing the concept of Application Exclusion Zones (“AEZ”) to reduce the risk of continued exposures to workers and bystanders during pesticide applications. An AEZ is a relatively small (25-100-foot) area around the pesticide application equipment where no one is permitted to be when a pesticide is being sprayed. To prevent immediate harm, the AEZ provision within the WPS requires the precaution that if someone is applying pesticides and sees workers or other people around the pesticide application equipment, they should try to avoid spraying them by suspending the application and resuming after a non-trained and unprotected person leaves the area. EPA’s own analysis found that the AEZ requirement would reduce a significant portion of poisoning incidents while imposing only negligible costs on employers.¹

Exposure from drift during applications is a serious and common public health problem in agricultural communities. Attempts to address the issue in the past have failed, at great cost to workers’ health. For more than 40 years, EPA recognized and tried unsuccessfully to prevent exposure to farmworkers from spray drift during pesticide applications. Between 1992-2017 the WPS included a provision prohibiting pesticide handlers from applying pesticides in a manner that would “contact, either directly or through drift, any worker or other person, other than an appropriately trained and equipped handler.”² Despite this prohibition and similar language on pesticide labels, poisoning incidents to workers and

¹ Agricultural Worker Protection Standard, Preamble to the Final Rule, 80 FR 67,524-5, Nov. 2, 2015, and Economic Analysis of Agricultural Worker Protection Standard Revisions, September 2015, pp. 88-89.

² 57 FR 38161

bystanders continued to occur at alarming rates. Federal and state health agencies, worker advocacy organizations, and even the news media have reported hundreds of injuries each year resulting from careless pesticide applications.

For this reason, preservation of the AEZ provision is vital to protect workers and communities from spray drift. Farmworkers, their children, and other bystanders are exposed to pesticides through drift and volatilization. There are 2.5 million farmworkers across the U.S.--including hundreds of thousands of minors--who are regularly exposed to pesticides in fields and nurseries across the nation. This number does not account for the workers, children and communities that live, learn, work, play and pray in areas adjacent to agricultural establishments where pesticides are sprayed. The health and safety of workers and rural communities is inextricably linked to the precautions that pesticide applicators must take to ensure that workers or bystanders are not sprayed with pesticides.

The protections provided by the AEZ provision are crucial because EPA's pesticide risk assessments are premised on the assumption that pesticides will be used according to their respective labels, which includes a prohibition on direct spraying of workers and bystanders with pesticides. EPA's pesticide risk assessments and registration decisions do not take into account the inevitability that pesticides will be "misused" and people will be sprayed with these chemicals.

Unfortunately, the EPA is taking steps to undo one of the most meaningful safeguards against workers or bystanders being sprayed with pesticides. In fact, on March 13, 2019, on the same day of my testimony before the Energy and Commerce Subcommittee on Environment and Climate Change, the agency sent proposed revisions to the AEZ provision to the Office of Management and Budget (OMB) for review.

The idea that pesticide applicators should avoid spraying pesticides when there are people in harm's way is an unquestionably sound policy from the standpoint of human health and human rights. Yet, pursuant to PRIA 4, the Trump Administration "may" reconsider and revise the AEZ provision of the WPS. EPA's attempt to weaken the commonsense protections provided by the AEZ provision without justification is misguided and dangerous for farmworker and rural communities across the country.

It is important that policy makers recognize and understand that the brunt of weakening the AEZ provision would be borne by low-income communities and communities of color, since the majority of farmworkers are of Latino and/or indigenous ancestry.³ To comply with its obligations under the law and Executive Order 12898 - Federal Actions to Address

³ Findings from the National Agricultural Workers Survey (NAWS) 2015-2016: A Demographic and Employment Profile of United States Farmworkers. Research Report No. 13. January 2018. Available at https://www.doleta.gov/naaws/pages/research/docs/NAWS_Research_Report_13.pdf

Environmental Justice in Minority Populations and Low-Income Populations, EPA must preserve or strengthen the existing worker protections rather than weaken them.

For the sake of workers and agricultural communities, we urge members of Congress to follow any revisions to the AEZ closely, to weigh in during the public comment period, and oppose any proposals that fail to protect workers and bystanders from occupational exposures and toxic drift.

2. In 2015, the World Health Organization classified glyphosate as “probably carcinogenic to humans.” In December 2017, EPA published a draft risk assessment that found no carcinogenic potential. A recent scientific study seeking to understand these different conclusions found several factors at play, including EPA’s reliance on manufacturer provided studies, EPA’s focus on the single active ingredient rather than studies of the formulations marketed and used in the United States, and EPA’s focus on dietary exposure as opposed to occupational exposure.

- a. **Do you think EPA should look at occupational exposures in its pesticide risk assessments? Why is this important?**

RESPONSE:

It is unacceptable that EPA did not evaluate occupational exposure to glyphosate and glyphosate-based herbicides as part of its human health risk assessment. In general, farmworkers who handle pesticides or work in areas where they are applied are the most exposed to pesticides and therefore the most vulnerable to pesticide toxicity. Furthermore, given the growing body of evidence that occupational exposure to glyphosate-based herbicides can cause cancer, it is especially concerning that EPA did not evaluate this type of exposure in the glyphosate risk assessment.

This year, scientists at the University of California, Berkeley; the University of Washington; and Icahn School of Medicine at Mount Sinai published an analysis that combined data from six independent studies and found that exposure to glyphosate-based herbicides was associated with non-Hodgkin lymphoma.⁴

⁴ Luoping Zhang et al., Exposure to Glyphosate-Based Herbicides and Risk for Non-Hodgkin Lymphoma: A Meta-Analysis and Supporting Evidence, *Mutation Research* (2019), available at <https://www.sciencedirect.com/science/article/pii/S1383574218300887>

- b. Do you think EPA should look at risks posed by the formulations marketed and used in the United States? Why is this important?**

RESPONSE:

EPA should evaluate the safety of glyphosate-based herbicides, which are complex mixtures of glyphosate and other ingredients, and not just the safety of glyphosate. This would better reflect how glyphosate is used, and what exposures result from its use, under real-world conditions. As part of the human health risk assessment process, EPA solicited feedback from independent experts who serve on the agency's Scientific Advisory Panel for pesticides. The independent experts recommended that EPA "identify and discuss any rodent cancer bioassays of glyphosate-based formulations" and not just studies of glyphosate in isolation.⁵

- c. Do you think it is appropriate for EPA to rely heavily on manufacturer-provided studies, rather than peer-reviewed studies?**

RESPONSE:

It is not appropriate for EPA to rely on manufacturer studies rather than on peer-reviewed independent studies. Notably, while the manufacturer of glyphosate continues to insist that its product does not cause cancer, multiple peer-reviewed epidemiologic studies by independent scientists have found that exposure to glyphosate-based herbicides is associated with cancer. See above. In general, there is a clear conflict of interest when a company that makes money by selling a product is also responsible for evaluating it. It is well documented that such conflicts of interest can result in biased studies.⁶

⁵ U.S. EPA, Transmission of Meeting Minutes and Final Report of the December 13-16, 2016 FIFRA SAP Meeting Held to Consider and Review Scientific Issues Associated with EPA's Evaluation of the Carcinogenic Potential of Glyphosate (p. 14), available at <https://www.regulations.gov/document?D=EPA-HQ-OPP-2016-0385-0526>

⁶ Andreas Lundh et al., Industry Sponsorship and Research Outcome, Cochrane Database of Systematic Reviews (2017), available at <https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.MR000033.pub3/full>