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July 31, 2017

Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Pruitt:

We applaud the Agency's work over the past several years to adopt a new, improved Worker Protection Standard regulation to protect farmworkers and their families from toxic pesticides. We now find it most troubling that the implementation of the critical protections contained within the WPS – protections that had long been left untouched thus exposing some of our country's most sensitive and vulnerable populations to undue any unnecessary harm – will potentially be delayed. As your environmental justice advisory committee, we find no compelling reason to delay the implementation of these protections. Farmworkers and their families deserve this critical protection for their health and their futures. The power to grant such protection now rests wholly in your hands. We urge you as strongly and stridently as possible to not allow bureaucratic considerations and maneuvering to overcome the need to protect the very people who feed our nation.

During our meeting on October 12-13, 2016, the National Environmental Justice Advisory Council received compelling public testimony from farmworkers and many farmworker organizations. They spoke passionately about their urgent need for information, training, and representation regarding pesticide hazards, protective measures, their rights, and employer responsibilities under the new WPS rule.

The NEJAC, as the EPA's advisory committee on environmental justice, believes it is critical that all elements of the new regulation are fully and effectively implemented immediately. In order to do so, Farmworkers and their communities must be involved in several critical implementation areas.

Among the most important provisions in the revised WPS is the requirement for annual training of farmworkers on a broader range of pesticide hazard protection topics, including their rights to file pesticide safety complaints. The importance of this provision cannot be overstated. We appreciate that the EPA has already awarded contracts for the development of training materials and programs. Now, the EPA

must ensure that these processes, and the resulting materials and programs, fully include and reflect the needs of farmworkers, and will effectively communicate the necessary information.

Regarding the development of WPS educational materials and programs, the NEJAC recommends that EPA:

- Ensure that all materials and programs are developed using best practices for public and occupational health education, including direct constituency involvement in the creation of materials and programs, and pilot testing with farmworkers before finalization;
- Commit resources to actively involve farmworkers in the development and pilot testing of training materials and programs to assure that these are understandable and effective in practice, and are culturally and linguistically appropriate;
- Convene (or ensure that the EPA's contractors convene) regional meetings to solicit input directly from farmworkers; and
- Contract with (or ensure that the EPA's contractors sub-contract with) farmworker-based organizations to conduct focus groups of farmworkers to review and revise materials under development before they are finalized.

The issue of workers' rights under the WPS should be a primary feature of any new outreach and training materials. In particular, workers should be fully informed about (1) how to report a violation of their rights and protections in their state, (2) their right to receive information about the pesticides applied in their workplace, and (3) their right to designate someone to request and receive information about the pesticides they were exposed to during the previous two years. These provisions, especially the new designated representative provision, must be clearly understood by state enforcement agencies. Further, EPA must make a concerted effort to ensure that states are clear on the parameters of this regulation and that they have a plan for adequate enforcement to protect this critical right.

Regarding the designated representative provision and other worker rights, and enforcement of WPS provisions and protections, the NEJAC recommends that EPA:

- Ensure that WPS education and training materials and programs clearly include the right to a designated representative, and other worker rights (including the right to report violations, and how to do so) and employer responsibilities, as a primary topic;
- Provide state agencies with clear guidance about the designated representative provision and other worker rights under the WPS;
- Require that state agencies have adequate, established plans and procedures to enforce the designated representative provision, process and resolve

reports of violations, and protect other worker rights, and that such procedures are clearly communicated to farmworkers and farmworker service providers;

- Require that states adopt such well-established procedures in order to receive EPA funding for enforcement.

The WPS' Application Exclusion Zones provision, designed to protect from exposure anyone within an area immediately surrounding the site of an application as it is being conducted, is also essential. EPA should act to ensure that the states fully implement and effectively enforce the WPS's AEZs requirements in order to protect farmworkers, their families and rural communities from exposure during pesticide applications.

Regarding the AEZs provision, the NEJAC recommends that:

- EPA require that states apply these protections to workers and their families within housing, child care centers or other structures within an AEZs; and
- Before implementing any policy advising farmworkers or other individuals to shelter within their housing during a pesticide application as a means to avoid exposure, EPA assess the safety and feasibility of such a policy compared to alternatives.

Again, you as Administrator have the ability to grant critical protection to farmworkers and farmworker families across the United States. We urge you as strongly as possible to grant this protection without delay. We look forward to hearing the Agency's response to these recommendations and receiving updates on actions taken to implement them and, as always, stand ready to assist the Agency in all of its deliberations and activities related to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Moore', with a long horizontal flourish extending to the right.

Richard Moore
Chair

cc: NEJAC Members

