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Re: Comments, Docket ID EPA-HQ-OPP-2011-0014

Farmworker Justice (“FJ”) offers this submission in response to the request of the Environmental Protection Agency (“EPA”) for public comment in its consideration of a petition to require pesticide registrants to provide pesticide labels in both English and Spanish. The petition was filed in December 2009 by FJ and Migrant Clinicians Network. These comments are made on behalf of the petitioners as well as the many other organizations listed in the signature page of this document.

We commend the EPA for its consideration of this very important matter of human health and environmental safety. Over the past several decades, the U.S. agricultural work force has become increasingly comprised of migrant workers from Mexico and other Spanish speaking countries. Today, the overwhelming majority of U.S. agricultural workers are native Spanish speakers. For far too long, these workers, their families, and their communities have suffered needless and avoidable injury and environmental damage as a result of not having access to pesticide safety information in the language that they can read and comprehend. Now is the time for the EPA to correct this serious regulatory shortcoming. We urge the EPA to do so by requiring Spanish labeling of pesticides as soon as possible.

A. Introduction

“Read the label.” This is perhaps the most important precaution that users of pesticides can take against the risks and hazards of pesticide exposure. In its public outreach materials, the EPA has devoted significant effort to promoting the importance of reading the label.

The pesticide label is your best guide to using pesticides safely and effectively. The directions on the label are there primarily to help you achieve “maximum” benefits -- the pest control that you desire -- with “minimum” risk. Both depend on following label directions and correctly using the pesticide. *Read the label.* Read the label before buying the pesticide. Read the label before mixing or using the pesticide *each time*, and read the label before storing or disposing of the pesticide. *Do not trust your memory. You may have forgotten part of the label instructions or they may have changed. Use of any pesticide in any way that is not consistent with label directions and precautions is illegal. It may also be ineffective, and even worse, dangerous.*¹

Unfortunately, most agricultural workers exposed to pesticides in this country cannot read pesticide labels. America’s farmworkers are overwhelmingly native Spanish speakers with limited English skills. However, except in certain limited contexts, the EPA currently requires pesticide labels to be provided only in English. As further discussed below, the EPA can and must require pesticide registrants to provide Spanish labeling in order to meet its regulatory responsibilities to protect workers, the public, and the environment.

In preparing these comments, we obtained information from a wide range of sources with varying perspectives on the proposal to require Spanish language labeling of pesticides. In addition to researching the pertinent scientific and clinical literature, we spoke to pesticide users (including certified pesticide applicators and supervisors of uncertified pesticide “handlers”), pesticide safety trainers, pesticide safety researchers, and agricultural employers, nearly all of whom expressed strong support for Spanish labeling of pesticides. Furthermore, to gain a better understanding of potential administrative and cost issues that some comments have raised, we contacted representatives of state pesticide regulatory agencies, commercial and industrial translation firms, and pesticide manufacturers.

Based on the research and information that we have gathered, we believe that Spanish labeling of pesticides would substantially improve the health and safety of users and others exposed to pesticide hazards, as well as better protect the environment. In these comments, we summarize the current pesticide regulatory framework as it relates to labeling; explain the substantial health and safety needs that would be addressed by Spanish labeling; outline our recommendations for an effective Spanish labeling requirement that would not entail unreasonable industry or regulatory implementation costs; and address specific questions and issues raised by the EPA in its request for comments.

¹ EPA, *Citizen’s Guide to Pest Control and Pesticide Safety* (March 2005), at 16 (emphasis added).

B. Background

1. Current Pesticide Regulatory Framework

Pesticides are inherently toxic materials -- they are developed and used to destroy or prevent growth or infestations of unwanted insects, plants, and other pests in agricultural, commercial, industrial, and household settings. Due to the human safety and environmental risks of exposure to pesticides, the sale, distribution, and use of pesticides are comprehensively regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”)² and the Federal Food, Drug, and Cosmetic Act (“FFDCA”).³

Pesticide labeling is a central component of FIFRA regulation. Under FIFRA, the EPA approves, or “registers,” pesticides for use in the United States. In the registration process, the EPA examines the ingredients of a pesticide; the site or crop on which it is to be used; the amount, frequency and timing of its use; and storage and disposal practices.⁴ To register a pesticide, the EPA must determine that the pesticide will not have unreasonable adverse effects on humans, the environment, and non-target species when used in accordance with label instructions.⁵ When a pesticide product is registered, it may not legally be used unless the use is consistent with the approved directions for use on the product’s label.⁶

Pesticide labels communicate critical information for protecting human health and the environment. This includes warnings and precautionary statements; information on first aid, personal protective equipment (“PPE”), and re-entry intervals (“REI”); directions for use; storage and disposal instructions; exposure symptoms; and other information on how to safely handle and use pesticide products. All label language must be approved by the EPA before a pesticide can be sold or distributed in the United States. The overall intent of the label is to provide clear directions for effective product usage while minimizing risks to human health and the environment. It is a violation of federal law to use a pesticide in a manner inconsistent with its labeling.⁷

2. Language Provisions of Existing Pesticide Labeling Regulations

Under EPA regulations, all required pesticide labeling text must appear in the English language.⁸ However, the EPA is authorized to require additional text in other languages “as is considered necessary to protect the public.”⁹ Moreover, applicants for pesticide registration may

² 7 U.S.C. § 136 et seq. (1996).

³ 21 U.S.C. § 301 et seq. (2002).

⁴ 7 U.S.C. § 136 et seq. (1996).

⁵ 7 U.S.C. § 136(a).

⁶ 7 U.S.C. § 136j(a)(2)(G).

⁷ EPA *Pesticide Registration Program* (last modified Feb. 16, 2011), <http://www.epa.gov/pesticides/factsheets/registration.htm>.

⁸ 40 C.F.R. § 156.10(a)(3).

⁹ Id.

voluntarily provide labeling in another language, subject to the requirement that the non-English labeling is a “true and accurate translation” of the English text.¹⁰

Spanish language pesticide labeling is currently required in three limited contexts.

- The most toxic pesticides -- those in EPA categories I and II -- must include the following statement in Spanish: “If you do not understand the label, find someone to explain it to you in detail.”¹¹ As discussed further below, this requirement does not adequately protect Spanish-speaking pesticide users.
- Restricted Use Pesticides (“RUPs”) sold in Puerto Rico must be labeled in Spanish as well as English.¹² This requirement reflects an explicit recognition of the need for Spanish labeling of hazardous products when Spanish is the predominant language of the population. Ongoing compliance by U.S. pesticide manufacturers suggests that the requirement has not entailed unreasonable implementation or administrative costs to industry or to Puerto Rico’s regulatory authorities.
- Since March 2010, the EPA has required registrants of total release foggers (“TRFs”) to include label statements in both English and Spanish on all indoor TRF products. Registrants must verify that the Spanish text is a true and accurate translation of the English text and submit a verification statement to the EPA.¹³

Moreover, under the EPA’s provisions for voluntary non-English labeling, many of the market’s leading pesticides for agricultural and home uses are already labeled in Spanish as well as English. For example, Spanish labeling is included in both agricultural and home use versions of Monsanto’s widely used “Roundup” herbicides. A recent visit to a home and garden retailer in the Washington, DC area revealed a wide range of consumer pesticide products, all labeled in both English and Spanish.¹⁴

C. Need for Spanish Labeling

As the EPA has recognized, agricultural pesticide users, including mixers, loaders, and applicators, are working with pesticides at their greatest concentrations and strengths, and thus

¹⁰ Id.; EPA Pesticide Registration Notice 98-10(IV)(I) (Oct. 22, 1998).

¹¹ 40 C.F.R. § 156.206(e).

¹² Request To Require Pesticide Products To Be Labeled in English and Spanish, 76 Fed. Reg. 61 (dated March 17, 2011) (citing the Puerto Rico Pesticide Act Part II, Section 4(D)(6)(a) and Part II Section 4(G)(3)).

¹³ See EPA letter to TRF registrants; <http://www.epa.gov/oppsrrd1/reevaluation/label-lang-fogger-letter.pdf>.

¹⁴ These bilingually labeled products included Ortho’s line of garden insecticides and herbicides; SC Johnson’s “RAID” residential insecticides; Bayer’s “Home Pest” insect killers and “Advanced” line of lawn and garden pesticides; GardenTech “Sevin” insecticides; Ecosmart organic insecticides; “Spectracide” weed and grass killer; “Weed B Gone” broadleaf and crabgrass herbicide; Scott’s “Turf Builder” lawn treatments; and Vigoro “Uktra Turf” weed and feed.

face greater risks of pesticide poisoning.¹⁵ In U.S. agriculture, Hispanic workers are disproportionately exposed to pesticides.¹⁶ These workers are at risk of injury or illness because they cannot read labels that are written only in English. According to the National Agricultural Worker Survey, 81 percent of farmworkers reported Spanish as their native language, and 53 percent of the farmworkers said they cannot speak, read, or write English.¹⁷ In a recent study of pesticide handlers in Washington State, 71 percent reported that they could not read in English, but nearly all of the participants were able to read in Spanish to at least some degree.¹⁸ Further, researchers have found that pesticide handlers who were not able to read English had significantly higher cholinesterase inhibition -- a marker of pesticide exposure -- than handlers who could read English.¹⁹

Supervisors and safety trainers whom we have contacted strongly support the proposed requirement for Spanish language pesticide labeling. Supervisors who are native Spanish speakers said that, despite passing their pesticide applicator certification exams, they are not confident that they understand the entire label. Further, they often have difficulty translating particular phrases into Spanish for their workers. In addition, we were told that Spanish labeling would increase compliance with safety requirements because workers would better understand the source of these requirements and would be able to refer back to the label if they had questions. Moreover, pesticide safety trainers said that Spanish labeling of the symptoms of exposure is important because supervisors generally do not go over this information in the fields, but workers clearly need to know what symptoms indicate exposure and when they should seek medical attention. Being able to read the label in an emergency, when no one bilingual is around, would be a significant help. Finally, trainers told us it would be more effective to be able to point out Spanish safety information on labels during training sessions, rather than pointing out English words and explaining what they mean in Spanish.

¹⁵ EPA, *Pesticide Safety for Non-Certified Mixers, Loaders and Applicators, Uso Seguro de Pesticidas para Mezcladores, Cargadores y Aplicadores no Certificados* (September 1986, published in English and Spanish), at 5.

¹⁶ Calvert GM, Karnik J, Mehler L, Beckman J, Morrissey B, Sievert J, Barrett R, Lackovic M, Mabee L, Schwartz A, Mitchell Y, Moraga-McHaley S. Acute pesticide poisoning among agricultural workers in the United States, 1998–2005. *Am J Ind Med.* 2008;51(12):883–898.

¹⁷ National Agricultural Worker Survey, 2001-2002. A Demographic and Employment Profile of United States Farmworkers, U.S. Department of Labor, Office of the Assistant Secretary for Policy, Office of Programmatic Policy, Research Report No. 9, March 2005 (noting that 81 percent of all U.S. farmworkers are native Spanish speakers, and 53 percent cannot read English at all). Available at: <http://www.doleta.gov/agworker/report9/chapter3.cfm#language> (accessed June 14, 2011).

¹⁸ Hofmann J, Checkoway H, Borges O, Servin F, Fenske R, Keifer M. (2010). Development of a computer-based survey instrument for organophosphate and N-methyl-carbamate exposure assessment among agricultural pesticide handlers. *Annals of Occupational Hygiene.* 54(6):640-50.

¹⁹ In a study of 154 pesticide handlers who participated in the Washington State cholinesterase monitoring program in 2006 or 2007, researchers examined cholinesterase (BuChE) inhibition, a marker of pesticide exposure, by English literacy status. Researchers found that pesticide handlers who were not able to read English had significantly greater BuChE inhibition than handlers who could read English at least to some degree after adjustment for other factors that might influence BuChE activity (on average 5.2 percent greater BuChE inhibition among subjects who could not read English; P=0.01). Hofmann, J., letter to EPA, Docket ID EPA-HQ-OPP-2011-0014-0169 (June 2011); Keifer, M., letter to EPA, Docket ID EPA-HQ-OPP-2011-0014-0168 (June 2011).

We have also spoken to growers who believe that Spanish labeling should be required. For example, the safety officer of a Florida citrus grower emphasized that when supervisors are translating safety information in the fields, he cannot be sure that they are translating the labels completely or correctly. Like several supervisors who talked to us, this safety officer often has difficulty translating particular English phrases into Spanish, although he speaks Spanish fluently. Including Spanish translations on product labels would ensure that this information is readily and accurately available to workers whenever they need it.

As noted previously, pesticides in the two most toxic categories must include a statement in Spanish advising workers that if they cannot understand the label, they should find someone to explain it in detail. None of the people we interviewed thought this requirement is effective in protecting workers from mishandling these pesticides. First, the statement is buried in the label text and can be difficult for workers to notice. Second, workers often do not have anyone around who can read and provide explanations of the label, or do not have the time to look for someone. Third, if an accident occurs, the worker needs emergency and first aid instructions immediately, and should not be forced to spend time trying to find someone who can read and translate the material. Finally, from an enforcement standpoint, it is difficult to monitor compliance and the quality of translations that workers are able to obtain when they are in the fields.

Compliance with the Worker Protection Standard (“WPS”) is not an adequate substitute for providing pesticide handlers with labeling information in their own language. The WPS requires that all workers receive safety training within the first five days of their employment in agriculture, and once every five years after that.²⁰ Handlers must receive additional training, which includes the form and meaning of information on pesticide labels, the importance of PPE, and general procedures to follow in case of a spill.²¹ However, these trainings cover only basic safety concepts. The WPS trainings do not provide specific information about products, such as what PPE is required or how to safely mix a particular chemical. The best way to obtain such important product-specific information is to read the label.

It is difficult for pesticide handlers who only speak Spanish to obtain all of the product-specific information necessary to protect them from pesticide hazards. Trainers have said that most growers are unable to help because they do not speak Spanish; instead, they rely on bilingual supervisors to translate safety materials. Supervisors generally explain the required PPE and directions for use, but they often do not go through all of the label material, such as symptoms of exposure. Under this system, there is no guarantee that all workers and handlers have access to all relevant label information.

Spanish translation of safety directions on pesticide labels is fundamentally necessary to ensure that all pesticide workers have access to this information. Without such access, workers cannot exercise their rights to be informed about pesticide hazards and to guard against the

²⁰ 40 C.F.R. §§ 170.130(a)(1) and (a)(3)(ii).

²¹ 40 C.F.R. § 170.230.

hazards. We urge the EPA to implement Spanish language labeling to better protect farmworkers and their families, as well as the surrounding communities.

D. Implementing an Effective Spanish Labeling Requirement

Under the existing regulatory scheme, the EPA is authorized to require non-English translations of pesticide labels as necessary to protect the public. As discussed above, there are great human and environmental health and safety needs for Spanish language labeling of pesticides. However, the EPA's current, extremely limited use of its authority to require Spanish labeling fails to meet these needs. The time has come for the EPA to make Spanish labeling mandatory for all registered pesticide products.

Current EPA regulations require all non-English text in labels to be true and accurate translations of the English text. The EPA should continue this requirement for mandatory Spanish labeling. The EPA should also require the translations to be in a general or universal form of Spanish to ensure comprehension by all Spanish speakers. According to our sources, translating pesticide labels from English to Spanish is a straightforward and inexpensive process, readily accomplished by translation services that certify the accuracy of their work.

Rather than the entire pesticide label, the EPA should require Spanish translations of only the sections of the label that convey essential safety and environmental information. This would include warnings and precautionary statements; information on first aid, PPE, and REI; general directions for use; storage and disposal instructions; exposure symptoms; and other safe handling and usage information. Even in the lengthiest labels, this information is typically contained in discreet and concise sections. For multiple-use pesticides, translation need not be required for crop- or pest-specific usage information that can take up many pages of a label. This approach would address concerns about significantly lengthening pesticide labels, while also ensuring that essential information for user and environmental protection is available in a language most farmworkers can read.

Pesticide registrants should be required to certify that Spanish labels are true and accurate translations of the English labeling.²² The EPA and state regulatory agencies could choose to rely upon these certifications in lieu of reviewing each translation to verify accuracy. This would alleviate potential EPA and state registration burdens that might otherwise be incurred. Of course, we do not propose to constrain the EPA or any state from exercising their authority to review translations for accuracy to any extent they deem appropriate.

So long as the accuracy of Spanish translations is assured, we believe it would be reasonable for the EPA to require only the English portion of the label to be enforceable. This would address the concern expressed by some state regulatory authorities that Spanish labeling

²² Under this requirement, if a translation turned out not to be true and accurate as certified, the EPA should revoke registration of the product until the translation is corrected. The EPA could also consider imposing liability on manufacturers for distributing products with non-conforming labeling if Spanish labels are not accurately translated.

could add to enforcement burdens. Under this approach, inspectors would not need to be able to read Spanish in order to determine whether observed usage complies with label instructions.

Finally, if the EPA determines that implementation should be phased in, we recommend that RUP pesticides be translated first, followed by the remaining pesticides of toxicity categories I and II, and then all remaining pesticides.

E. Responses to EPA Questions

1. *Language characteristics vary by culture, region, and other factors. How could EPA ensure that Spanish text on pesticide product labels would be understood by all potential Spanish-speaking users?*

According to our sources familiar with commercial and industrial translations, the kind of information in pesticide labels generally is not susceptible to regional idioms or nuances. Professional translators informed us that label information can be translated into a universal form of Spanish that can be widely understood by Spanish speakers regardless of their country of origin.²³ However, as the vast majority of Spanish-speaking farmworkers in this country are from Mexico,²⁴ whatever regional wording differences might arise should be resolved in favor of the wording encountered in Mexico. In any event, we are told that a worker from one Spanish-speaking country would have little difficulty understanding pesticide safety information if it were translated into a form of Spanish used in a different country or region.

2. *Labeling in Spanish could potentially be required for all pesticide products, for a subset of pesticide products, or for a portion of the product label. If the Agency concluded that translation of a portion or portions of the label were appropriate, which portions of the pesticide label would it be most beneficial to have in Spanish, and why?*

Sections of pesticide labels for which translations are essential include warnings and precautionary statements; information on exposure symptoms, toxicity levels, first aid, PPE, and REI; general safe handling and usage directions; storage and disposal instructions and other directions to prevent environmental contamination. These are the most important sections for preventing harm to farmworkers' health and the environment. Translating only this essential

²³ See also comment of Maria Gorgo-Gourovitch, who, having had 20 years of experience as a Spanish translator in agricultural and marketing fields, indicated that professional translators know how to translate in a "generic manner" and to avoid slang and other regionalisms in wording. Docket ID EPA-HQ-OPP-2011-0014-0167 (June 2011).

²⁴ National Agricultural Worker Survey, 2001-2002. A Demographic and Employment Profile of United States Farmworkers. U.S. Department of Labor, Office of the Assistant Secretary for Policy, Office of Programmatic Policy, Research Report No. 9 (March 2005) (noting that seventy-eight percent of all U.S. farmworkers are foreign-born, and 75 percent of all U.S. farmworkers are from Mexico; based on these findings, 96 percent (75/78) of all foreign born farmworkers are from Mexico). Available at <http://www.doleta.gov/agworker/report9/toc.cfm> (accessed June 13, 2011).

information will ensure that the safety and environmental protection instructions stand out to workers, while minimizing any additional labeling costs for pesticide manufacturers.

Spanish translations should be provided for all pesticide labels. If the translation requirement must be phased in, the EPA should start with the most hazardous compounds -- first the RUP pesticides and then products in toxicity categories I and II. Eventually, all labels should be translated because even low-toxicity level pesticides can cause harmful health and environmental effects if used improperly.

3. *Are there languages other than Spanish and English that EPA should consider for inclusion?*

In agriculture, there is great need for Spanish translations because the vast majority of farmworkers speak Spanish. The same is true for other industries, such as lawn care and landscaping, where pesticide usage occurs. While there are workers in these industries who speak other non-English languages, Spanish is by far the predominant language. We do not believe the EPA should require translations into any languages other than Spanish at this time, but should consider what other languages may need translation in the future.

4. *Please describe how having labels available in English and Spanish could increase or decrease pesticide user safety.*

The language barrier is a significant factor in pesticide exposure. As research has shown, Hispanic farmworkers are disproportionately exposed to pesticides.²⁵ In addition, pesticide handlers who cannot read English are more likely to be exposed than handlers who can read English.²⁶ Relying on bilingual supervisors and growers to relay label information does not adequately protect workers against pesticide hazards. According to comments we received from growers, supervisors, and trainers, supervision by a licensed applicator is not an adequate substitute for providing safety information on pesticide labels in a language that users can read.

- Supervision of pesticide handlers is not always on site. It can be by radio contact or phone, one university extension agent told us, and the supervisor can be miles away from the handlers.

²⁵ Calvert GM, Karnik J, Mehler L, Beckman J, Morrissey B, Sievert J, Barrett R, Lackovic M, Mabee L, Schwartz A, Mitchell Y, Moraga-McHaley S. Acute pesticide poisoning among agricultural workers in the United States, 1998–2005. *Am J Ind Med.* 2008;51(12):883–898.

²⁶ As noted previously, researchers have found that pesticide handlers who could not read English had significantly higher indications of pesticide exposure than those who could read English. See footnote 17, at p. 4, and accompanying text.

- An orchard supervisor indicated that he is often “pretty far away” from people who are spraying. Spanish labeling would allow his handlers to read the label to handle emergency situations without having to wait for a supervisor to arrive.
- Many sources said that Spanish labeling would be important for situations where the handler has a safety question when he is in the field but cannot easily or quickly find someone to read and translate the English label.
- Safety trainers indicated that even Hispanic workers who have some fluency in English are more comfortable reading in Spanish. “Anytime you have material in your own language, you increase safety,” a university extension agent told us.

Without the ability to read labels, workers do not receive effective training in pesticide hazards. WPS training covers only basic pesticide safety concepts; the employer or a supervisor must provide specific information found on the label for how to safely use a particular product.²⁷ Because most workers cannot read English labels, this requires translating the English information into Spanish, which can present problems.

- A Spanish-speaking supervisor told us that he wishes labels were in Spanish so he could better understand symptoms of exposure and what to do in cases of emergency. Although he is certified as a pesticide applicator, he relies on a translator to relay information from pesticide labels to his workers because he is not comfortable reading it in English.
- The safety officer for a citrus grower told us he is not comfortable relying on people who can read English to explain the label to Spanish speakers because “you don’t know what they are translating.”
- One supervisor of a large greenhouse, a native Spanish speaker but fluent in English, said he believes he is “missing things” when he reads labels in English. He also has trouble translating labels into Spanish for his workers because all of his learning about pesticides has been in English, so he does not always know how to explain information in Spanish.

A significant percentage of workers do not receive WPS training, according to one study of North Carolina agricultural workers,²⁸ and many workers who do receive the training do not

²⁷ 40 C.F.R. §§ 170.130(a), 170.232.

²⁸ Whalley, Lara E., Grzywacs, Joseph G., Quandt, Sara A., Vallejos, Quirina M., Walkup, Michael, Chen, Haiying, Galvan, Leonardo, and Acury, Thomas A. (2009) ‘Migrant Farmworker Field and Camp Safety and Sanitation in Eastern North Carolina,’ *Journal of Agromedicine*, 14:4, 421-426.

understand it.²⁹ Labels are important to ensure that workers have access to safety information even if they miss or do not understand WPS training.

- One county extension director told us that WPS training for H-2A workers in his state consists of showing a DVD that runs continuously for two to three hours while the workers are being processed after a 25-hour bus ride.
- Pesticide safety trainers also told us that many growers and supervisors often do not cover all of the information that handlers need to know when they are explaining pesticide labels.
- “A lot of times, it’s just ‘Here’s the pesticide,’ the farmer is not going through the symptoms of exposure,” one pesticide safety trainer told us.

Spanish translations on the label should lead to increased compliance with safety and environmental requirements. As noted above, over 80 percent of farmworkers speak Spanish as their first language, and most cannot read in English. However, a Washington State study found that nearly all workers could read in Spanish. Thus, someone working in a field who could not read a label would be much more likely to find someone who could read a Spanish label than to find someone who could read and translate the English label.

- An English-speaking greenhouse sprayer said bilingual labeling would increase compliance because workers could read for themselves what PPE to wear or how long to wait before re-entering an area. She reads the label each time she uses a product.
- A university extension director said that workers who cannot read labels tend to perceive pesticides as dangerous only if the chemical smells bad or if the grower makes them wear a full protective suit when applying it; they would be more cognizant of pesticide hazards and take safety more seriously if they could read the warnings on labels.
- Trainers and legal assistance providers also told us that pesticide exposures are under-reported because workers do not recognize such symptoms when they occur. Spanish translations of this information would reinforce the safety message and ensure that workers know when they may have been exposed to pesticides.
- We asked one trainer about pesticide poisoning in his state, as we had been told that there were no reported cases in the last few years. The trainer said that he

²⁹ Id.

discusses the symptoms of exposure at each of his training sessions, and people always speak up about experiencing such symptoms. Nearly half of the workers in his classes say they have had a pesticide reaction, ranging from rashes to chest pain.

- A common theme among pesticide safety trainers who talked to us was that safety on a particular farm is highly dependent on the grower's attitude. Providing Spanish translations of essential safety information on pesticide labels would "even the playing field" for worker safety.

5. *How do you currently obtain information in Spanish regarding a pesticide product?*

For pesticides in toxicity categories I and II, the EPA require labels to include a Spanish warning statement with the following text: "If you do not understand the label, find someone to explain it to you in detail."³⁰ The warning statement places the burden on the worker to find someone to read and translate the label. This self-help remedy is simply inadequate as a substitute for providing the information directly to workers in a language that they can read for themselves. Pesticide handlers should not have to rely on others for access essential safety information about these products. Following are some of the comments we received concerning the inadequacy of this provision.

- In the reality of the fields, workers rely primarily on their co-workers for pesticide information, according to a county extension director who spoke to us; unfortunately, most workers cannot read label information.
- The EPA's requirement of this warning statement is limited to category I and II pesticides. While category III and IV pesticides are less toxic, they still require PPE, and adverse health and environmental effects can result from improper use.
- There are no enforcement mechanisms to ensure a worker's compliance with the statement. Even if a worker wanted to comply, there is no way to ensure that someone who can read and adequately translate the label would be available. It is unrealistic to expect a worker to delay or not engage in working with a pesticide if a translation is not available.

6. *Please describe how farmworkers, their families, and others exposed to pesticides could benefit from this proposal.*

³⁰ 40 C.F.R. § 156.206(e)

Farmworkers are interested in safety information and want to be able to read such information in their own language.

- According to the Farmworker Association of Florida, which conducts WPS training for approximately 500 workers each year, workers frequently ask for more specific product information. This is the most common feedback that the organization receives from its training sessions.
- A county extension director said that he has distributed written materials in Spanish on pesticide safety to farmworkers. Years later, he observed those same materials, “dog-eared,” in worker housing. “It’s obvious that they had been read,” he said.

As noted above, providing label information in a language workers can read should increase compliance with safety requirements and environmental precautions.

- Providing information on environmental safety in Spanish could help surrounding communities by reducing pesticide drift. In a recent study, violations of pesticide regulations were present in 74 percent of drift events.³¹ The researchers suggested improving pesticide labels so that the directions for use are clear and practical.³² Translating safety information into Spanish is one way to improve the clarity of pesticide labels for the majority of workers who cannot read English.
- Reducing pesticide drift would also improve the health of farmworkers and residents of agricultural communities, who are at the highest risk for illness from drift exposure.³³
- Ensuring that those who work with pesticides fully understand how to comply with label requirements will also protect their families. Children are particularly susceptible to pesticide exposure and could benefit from such increased compliance and safety awareness. For example, pesticides can drift into homes, schools, and daycare centers when located near fields.³⁴ Parents can also bring

³¹ Lee et al. 2011, “Acute Pesticide Illnesses Associated with Off-Target Pesticide Drift from Agricultural Applications – 11 States, 1998 – 2006,” *Environmental Health Perspectives* (June 6, 2011).

³² National Institute for Occupational Safety and Health (NIOSH) Publications and Products, Centers for Disease Control and Prevention (CDC), *Risk of Illness from Pesticide Drift Greatest for Agricultural Workers, Study Finds* (last modified June 9, 2011), <http://www.cdc.gov/niosh/updates/upd-06-06-11.html>.

³³ Lee et al., *supra* note 31, at 9-10.

³⁴ See Earthjustice and Farmworker Justice, *Pesticides in the Air – Kids at Risk: Petition to EPA to Protect Children From Pesticide Drift*, submitted October 14, 2009.

pesticides into the home on their tools, clothes, shoes, and skin and can expose their children through something as simple as a hug before they shower.³⁵

- Farmworkers who understand the risks and health effects of pesticides are more likely to report incidents of misuse and to seek medical attention in the event of health problems. Workers who experience headaches or rashes might not recognize that these could be symptoms of pesticide exposure unless they could read the label, said one legal assistance provider.

7. *Would this proposal affect your day-to-day work? If so, how?*

Many of our sources said that Spanish labeling would empower workers to improve their health and safety. Similar comments we received include the following.

- Including Spanish translations on pesticide labels would improve safety training because trainers could point out the information in Spanish on the label, rather than explaining what the English means, one university extension agent told us.
- A legal assistance provider said that Spanish labeling would improve farmworkers' chances of receiving workers' compensation because workers would be more likely to recognize and report pesticide exposure symptoms. In addition, she believes that Spanish labeling could lead to improved statistics on pesticide exposure because fewer cases would go unreported.

In addition, Spanish labeling would improve pesticide safety training for workers, and it would make translation easier for the trainers.

- A farm supervisor said that if label information were in Spanish, workers would better understand the information and ask better questions during training sessions.
- The safety officer for a citrus grower told us that bilingual labeling would make his job easier because he is constantly translating English labels into Spanish to explain safety information to workers. Although he speaks both languages fluently, he has difficulty translating particular phrases. Having the safety information on the label available in Spanish would be very helpful to him.

³⁵ Lu C., R.A. Fenske, N.J. Simcox, and D. Kalman. 2006. Pesticide Exposure of Children in an Agricultural Community: Evidence of Household Proximity to Farmland and Take Home Exposure Pathways. *Environmental Research*, 84(3), 290-302.

8. *Which parts of pesticide labeling, if any, would be most valuable to have translated into Spanish and why?*

Sections of pesticide labels for which translations are essential include warnings and precautionary statements; information on exposure symptoms, toxicity levels, first aid, PPE, and REI; general safe handling and usage directions; storage and disposal instructions and other directions to prevent environmental contamination. These are the most important sections for preventing harm to farmworkers' health and the environment.

9. *Would having a Spanish translation of labeling be more important for some types of products than for others? Please describe why this would be so. And if so, how should EPA select products that would bear bilingual labeling?*

If all pesticide labels cannot be translated at once, start with RUP-designated pesticides and then other pesticides in toxicity categories I and II. Thereafter, all other pesticide labels should be translated because even low-toxicity level pesticides can cause harmful health and environmental effects if used improperly.

10. *What effect would the availability of bilingual labeling have on users' understanding of label text?*

The majority of farmworkers do not speak, read or write English³⁶ and therefore do not understand the user safety information, PPE, first aid instructions, or direction for avoiding environmental contamination.

- A pesticide safety trainer expressed irritation at seeing instructions of workers to “read the label” because most workers cannot do so when labels are in English.
- People who work directly with Spanish-speaking farmworkers, including pesticide safety trainers, supervisors, and a legal services provider, said that farmworkers would be able to read safety information in Spanish.
- One supervisor of over 100 workers in a greenhouse operation told us that all of his Hispanic workers could read safety information on a label if it were written in Spanish. An applicator at a fruit orchard who supervises 10 handlers said three of them could read English, but the remaining seven could read labels only if they were in Spanish.

³⁶ See National Agricultural Worker Survey, *supra* note 17.

- Many growers and trainers said that handlers and applicators tend to be more experienced and educated than other workers, making them more likely to be able to read label information in Spanish. These are the individuals who are actually working with the pesticides and who would most benefit from this proposal.

11. *Would pictograms or other non-language methods of communication be beneficial for communication of labeling requirements?*

We believe that the EPA should study the possible benefits of including pictograms in pesticide labels or in supplemental materials, provided that this does not delay implementation of Spanish language labeling. Pictograms could be useful for farmworkers who are limited in their Spanish proficiency (such as indigenous workers from Mexico and Central America), Spanish speakers with low literacy, and workers who speak languages other than Spanish.

F. Potential Concerns of Industry and State Regulatory Community

1. Industry Costs Would Not be Unreasonable

Substantial experience with bilingual labeling already developed in the pesticide industry demonstrates that industry costs of complying with the proposed Spanish labeling requirements would not be significant or unreasonable. For example, U.S. manufacturers are already required to provide Spanish language labels for pesticides that they export to Mexico and other Latin American markets, as well as for RUPs sold in Puerto Rico. In addition, manufacturers are already voluntarily providing Spanish labels for many pesticides sold in the U.S., including Monsanto's Roundup and several pesticides packaged for consumer use. U.S. manufacturers are required to provide both English and French labeling in order to sell their products in Canada.

Industry cost estimates developed in 2001, in connection with Canadian implementation of bilingual labeling, are quite modest: less than CAD\$4,000 per product for administration, translation, and printing costs.³⁷ When Canada imposed bilingual labeling in 2003, the Canadian government estimated a total industry cost of approximately CAD\$26 million spread over a five-year implementation period, or around CAD\$5 million per year. If Spanish labeling for the U.S. market entails comparable industry costs, the impact would be negligible in the context of a U.S. pesticide market worth over US\$12.4 billion in total annual expenditures.³⁸

Representatives of two pesticide manufacturers told us that translation and additional labeling costs are not significant obstacles to bilingual labeling. We also contacted professional translation services who indicated that certified translation of a pesticide label should cost at

³⁷ Regulations Amending the Pest Control Products Regulations, 135 Canada Gazette 26 (2001) (stating that the estimated cost to industry was CAD\$3,700 per product, and the total cost to industry if all product labels had to be translated would be CAD\$26,250,000).

³⁸ Environmental Protection Agency, Pesticide Industry Sales and Usage; 2006 and 2007 Market Data, Table 2.2: Value of U.S. Pesticide Production at the Producer Level. February 2011.

most a few thousand dollars, which would be negligible when spread over many millions of dollars of product sales. Similarly, costs associated with additional printing and labeling are not likely to add significantly to production costs.

2. State Administrative and Regulatory Concerns

The chairman of the State FIFRA Issues Research and Evaluation Group Pesticide Operations and Management Working Committee (“SFIREG POM”) submitted comments raising concerns that pesticide labels are already long and complicated, and Spanish labeling would make them more difficult to read; that states would need bilingual resources to administer and enforce usage with reference to Spanish labeling text; and that Spanish labeling will lead non-English speaking pesticide users to assert that they do not need to learn English to become certified applicators and instead demand that certification programs be offered in Spanish.

The Spanish labeling approach that we have laid out will not give rise to the problems envisioned by SFIREG POM. We are asking for translations of essential safety and environmental information, which would add a page or two, at most, to pesticide labels. English speakers would simply ignore the Spanish portion. The benefits from including safety and environmental information on the label in a language most farmworkers can read far outweigh the slight increase in label length.

Moreover, we agree with SFIREG POM’s suggestions that if bilingual labels are required, registrants be required to “self-certify” that Spanish translations are identical to the English text in every way; and that only the English text should be considered enforceable. These conditions would alleviate administrative costs of state review of the translations for accuracy, and avoid potential enforcement complications and costs that might otherwise be encountered.

Finally, we do not believe that the EPA’s decision on bilingual labeling should be dependent on the possibility that workers may in the future ask that certification programs and exams be offered in Spanish. States will continue to decide these questions based on their own resources and priorities. The EPA should require bilingual labeling based upon a considered assessment of the merits.

G. Conclusion

Without bilingual labeling, today’s Spanish-speaking agricultural workforce is at great risk for pesticide exposure. The majority of farmworkers cannot read pesticide labels in English, but they could read such information if Spanish translations were available. Providing the most critical label sections in Spanish would improve farmworkers’ health and prevent environmental contamination by ensuring that all workers have access to this information.

WPS training is not an adequate substitute for translations because it does not cover product-specific information like symptoms of exposure or PPE. Although workers who cannot read labels can ask their employers or supervisors to explain what the labels say, workers should not have to rely on others to tell them about critical safety information. Further, even bilingual supervisors and growers have difficulty translating certain phrases and would find label translations useful. Workers must have reliable access to the safety information in pesticide labels, especially in emergency situations. In addition, Spanish labeling of pesticides can improve public health information, as workers would be more likely to correctly identify and report symptoms of exposure if they could read sections on symptoms of exposure in Spanish.

Bilingual labeling would be a cost-effective way of improving worker and environmental safety. U.S. pesticide manufacturers already translate labels into Spanish to sell their products in Mexico, Central and South America, and Puerto Rico (in the case of RUPs); and some already provide Spanish translations for products sold in the U.S. A Spanish labeling requirement can be efficiently implemented and administered under the certification and enforcement approaches that we and state regulatory commenters have suggested.

Accordingly, we urge the EPA to implement as soon as possible a requirement that pesticide registrants provide Spanish-language product labeling in a manner consistent with the views and recommendations set forth in these comments.

Farmworker Justice
Migrant Clinicians Network

Advocates for Environmental Human Rights
AgriSafe Network
Alaska Community Action on Toxics
Alianza de Mujeres Activas
Arkansas Audubon Society
Association of Farmworker Opportunity Programs
Audubon Society of Greater Denver
Beyond Pesticides
Bird Conservation Network
Californians for Alternatives to Toxics
California Rural Legal Assistance, Inc.
California Rural Legal Assistance Foundation
California Safe Schools
Campesinos Sin Fronteras
CATA
Center for Biological Diversity
Center for Environmental Health
Center for Health, Environment & Justice
Change to Win

Defenders of Wildlife
Earthjustice
East Coast Migrant Head Start Project
E Center
Endangered Habitats League
Environmental Health Fund
Farmworker Association of Florida
Farmworker Health and Safety Institute
Farmworker Legal Services of New York, Inc
Farmworker Self-Help
Friends of the Earth
Health Outreach Partners
Kentucky Environmental Foundation
Legal Aid Services of Oregon
MAFO, Inc.
Maryland Legal Aid Bureau, Inc.
Migrant Farmworker Justice Project of Florida Legal Services
Migrant Health Promotion
Migrant Legal Action Program
National Immigrant Farming Initiative
National Farm Worker Ministry
New Mexico Center on Law and Poverty
North Carolina Justice Center
Northwest Center for Alternatives to Pesticides
NOWIA Unete Center for Farmworker Advocacy
Pesticide Action Network North America
Pesticide Watch Education Fund
Public Citizen
Redlands Christian Migrant Association
Rural Coalition/Coalición Rural
Student Action with Farmworkers
Swanton Berry Farm
TEDX (The Endocrine Disruption Exchange)
Telamon Corporation
United Farm Workers
Virginia Legal Aid Justice Center -- Immigrant Advocacy Program