



Californians For
Pesticide Reform



November 9, 2018

Linda Irokawa-Otani, Regulations Coordinator
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, CA 95812-4015

Re: DPR Regulation No. 18-002 – Public Comment in Support of Proposal to List Chlorpyrifos as a Toxic Air Contaminant

Ms. Irokawa-Otani:

Californians for Pesticide Reform and the 117 undersigned organizations strongly support the Department of Pesticide Regulation’s proposed regulation designating chlorpyrifos as a toxic air contaminant (“TAC”). The Final Toxic Air Contaminant Evaluation of Chlorpyrifos (“TAC Evaluation”)¹ and the Scientific Review Panel² properly concluded that chlorpyrifos should be listed as a TAC, based on overwhelming evidence that chlorpyrifos use in California threatens children’s brain development.

However, a TAC listing alone is insufficient to protect public health. We urge you to take two additional immediate steps to protect Californians from substantial and ongoing health threats: suspend and cancel registrations for all chlorpyrifos products. As DPR acknowledges on the TAC program website, “[i]mplementing control measures under the TAC program is methodical and time-consuming,” and “DPR may use other legal authority to implement control measures, particularly for pesticides that pose an immediate health threat.”³ DPR does not expect to adopt mitigation measures⁴ for chlorpyrifos in the TAC process until April 2021⁵—at the soonest. Suspension and cancellation cannot, and need not, wait. California’s children should not be put at risk for one more day.

I. DPR should promptly list chlorpyrifos as a toxic air contaminant.

We strongly support the proposed regulation that lists chlorpyrifos as a toxic air contaminant. DPR correctly determined that chlorpyrifos is a TAC⁶ because it is an air pollutant that causes or contributes to “an increase in mortality or an increase in serious illness, or which may pose a

¹ Department of Pesticide Regulation, Final Toxic Air Contaminant Evaluation of Chlorpyrifos (July 2018) (“TAC Evaluation”) at 3.

² Findings of the Scientific Review Panel on the Proposed Identification of Chlorpyrifos as a Toxic Air Contaminant as adopted at the Panel’s July 30, 2018 Meeting (“SRP Findings”).

³ Department of Pesticide Regulation: Toxic Air Contaminant Program, <https://www.cdpr.ca.gov/docs/emon/pubs/tacmenu.htm> (last accessed Oct. 23, 2018).

⁴ Food & Agr. Code § 14023(e).

⁵ DPR, Chlorpyrifos Update (Sept. 21, 2018), available at https://www.cdpr.ca.gov/docs/dept/prec/2018/092118_chlorpyrifos_update.pdf.

⁶ Notice of Proposed Regulatory Action, DPR Regulation No. 18-002 at 2.

present or potential hazard to human health.”⁷ Specifically, airborne chlorpyrifos drift from currently allowed uses threatens brain development in our youngest Californians.

A pesticide is listed as a TAC if estimated or measured air concentrations exceed a reference concentration divided by ten.⁸ The Scientific Review Panel concluded the TAC Evaluation “convincingly demonstrate[s]” that developmental neurotoxicity effects “occur at levels substantially below the level that causes 10% inhibition of red blood cell (RBC) acetyl cholinesterase inhibition, a level that was used in previous assessments of chlorpyrifos toxicity.”⁹ Furthermore, “[b]ased on a full review of all currently available science, developmental neurotoxicity is the appropriate regulatory endpoint for chlorpyrifos to protect health.”¹⁰ These conclusions are the result of thorough vetting and extensive scientific and public review, and are supported by a robust body of evidence in the record for this proceeding and beyond.¹¹ The TAC Evaluation and the Scientific Review Panel unequivocally conclude that chlorpyrifos should be listed as a TAC, and we agree.

II. DPR should immediately cancel all chlorpyrifos registrations.

In addition, the urgent, widespread public health threats identified in the TAC Evaluation must be addressed immediately by cancelling all chlorpyrifos registrations. The Food and Agricultural Code identifies nine conditions that may warrant cancellation of a pesticide registration.¹² Based on information from the TAC Evaluation, at least four of these conditions support cancellation for chlorpyrifos¹³:

- a. Chlorpyrifos has numerous “demonstrated serious uncontrollable adverse effects.”
- b. Even when used properly, chlorpyrifos is “detrimental ... to the public health and safety.”
- c. Chlorpyrifos causes greater detriment to the environment than the benefit received.¹⁴
- d. There are alternatives to chlorpyrifos that are less destructive to the environment.¹⁵

⁷ Food & Agr. Code § 14021(b).

⁸ 3 CCR § 6864; DPR, Director’s Proposed Determination Concerning Chlorpyrifos as a Toxic Air Contaminant (Aug. 24, 2018).

⁹ SRP Findings.

¹⁰ SRP Findings.

¹¹ SRP Findings; Food & Agr. Code § 14023(b) (“The panel shall review, as appropriate, the scientific data on which the report is based, the scientific procedures and methods used to support the data, and the conclusions and assessments on which the report is based.”); *see also* Hertz-Picciotto et al., Organophosphate exposures during pregnancy and child neurodevelopment: Recommendations for essential policy reforms, *PLoS Med* 15(10) (Oct. 24, 2018), available at <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002671>; U.S. Environmental Protection Agency, Revised Human Health Risk Assessment for Registration Review (Nov. 3, 2016), available at <https://www.regulations.gov/document?D=EPA-HQ-OPP-2015-0653-0454>.

¹² Food & Agr. Code § 12825.

¹³ Food & Agr. Code § 12825(a), (b), (c), (d).

¹⁴ U.S. EPA issued a memorandum of its Analysis of the Small Business Impacts of Revoking Chlorpyrifos Food Tolerances and found that of the small farms affected by revoking chlorpyrifos food tolerances, most will face minor economic impacts, defined as less than one percent of gross revenue, because reasonably priced alternatives are available for the pests targeted by chlorpyrifos. U.S. Environmental Protection Agency 2015. Memorandum: Analysis of the Small Business Impacts of Revoking Chlorpyrifos Food Tolerances, available at <https://www.regulations.gov/docket?D=EPA-HQ-OPP-2015-0653>.

¹⁵ Data suggests that alternatives to chlorpyrifos are readily available: in 2010, for the leading uses of the pesticide on almonds, alfalfa, walnuts, oranges, cotton, grapes, and broccoli, over half of all growers of each crop were not

Specifically, the TAC Evaluation characterized numerous ongoing adverse impacts of chlorpyrifos use on the environment and bystanders, including vulnerable populations (infants, children, and women of childbearing age)¹⁶:

- **Air:** Aerial and ground boom application of chlorpyrifos result in unacceptable risk¹⁷ for infants at all distances modeled—up to a half mile (2,608 feet) away from the field.
- **Food:** Current use patterns resulted in unacceptable risk¹⁸ from dietary exposure for all vulnerable populations evaluated.
- **Drinking Water:** Current use patterns resulted in unacceptable risk¹⁹ from dietary exposure for all vulnerable populations evaluated.
- **Aggregate:** Combined exposures from current use patterns result in unacceptable risk²⁰ for all vulnerable populations evaluated.

DPR is charged with ending the use of dangerous pesticides in the state, on an ongoing basis.²¹ Chlorpyrifos is demonstrably dangerous to young Californians, so its use must end.

III. DPR should suspend registrations for chlorpyrifos without delay because continued use poses an immediate threat.

Immediate suspension of chlorpyrifos registrations is necessary to protect the health of Californians during cancellation proceedings. The Director should suspend a pesticide registration if he has any “reason to believe” that (1) any one of the nine conditions warranting cancellation applies, and (2) continued use of the pesticide poses an “immediate substantial danger.”²² As outlined above, at least four conditions justify cancellation of chlorpyrifos registrations. And the same adverse impacts identified in the TAC Evaluation that make cancellation necessary also pose “immediate substantial dangers” that cannot be allowed to continue during the time-consuming TAC and cancellation proceedings.

Infants near fields sprayed with chlorpyrifos bear an unacceptable risk of brain impairment from current uses of chlorpyrifos. Our farming communities, some of whom already feel the health consequences from other contaminants to their air, water, and food, suffer disproportionately from the impacts of chlorpyrifos on their youngest members. And pregnant women, infants, and children may face additional health risks every time they eat or drink in the state. These are substantial dangers that require an urgent solution.

using chlorpyrifos. California’s Pesticide Use Reporting Program, *available at* <https://www.cdpr.ca.gov/docs/pur/pur10rep/comrpt10.pdf>.

¹⁶ TAC Evaluation at 83 (table 27) and Appendix 2.

¹⁷ Margin of Exposure below 100.

¹⁸ Margins of Exposure below 100.

¹⁹ Margins of Exposure below 100.

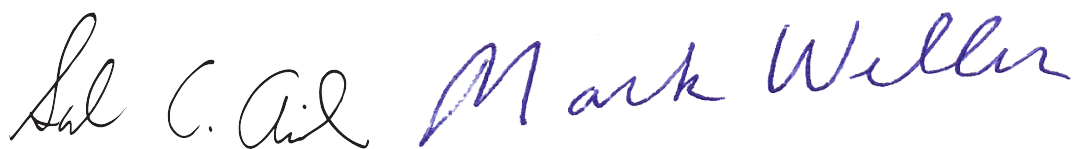
²⁰ Margins of Exposure below 100.

²¹ Food & Agr. Code § 12824.

²² Food & Agr. Code § 12826.

In conclusion, DPR's risk analysis correctly concluded that current use patterns result in exposures that exceed the acceptable risk level²³ for infants, children, and women of childbearing age. Accordingly, we urge DPR to list chlorpyrifos as a TAC and immediately suspend and initiate cancellation for all products containing chlorpyrifos.

Sincerely,



Sarah Aird & Mark Weller, Co-Directors
Californians for Pesticide Reform

Anne Katten, Director, Pesticide & Worker Safety Project
California Rural Legal Assistance Foundation

Paulina Torres, Staff Attorney
Center on Race, Poverty & the Environment

Allison Johnson, J.D., Sustainable Food Policy Advocate
Natural Resources Defense Council

And the following 114 co-signatories:

The Rev. Nicole Janelle, MPH, Executive Director
The Abundant Table

Pamela Miller, Executive Director
Alaska Community Action on Toxics

Katie Huffling, RN, MS, CNM, Executive Director
Alliance of Nurses for Healthy Environments

Roberta Camacho, Treasurer
Asamblea de Gonzales

Tom Frantz, President
Association of Irrigated Residents

John Roberts, board member
Atascadero Green Valley Watershed Council

²³ Margins of Exposure above 100.

Ched Myers, Co-Director
Bartimaeus Cooperative Ministries

David F. Gassman, co-convenor
Bay Area - System Change not Climate Change (BA-SCnCC)

Jay Feldman, Executive Director
Beyond Pesticides

Lisa Arkin, Executive Director
Beyond Toxics

Kristania De Leon, Project and Policy Manager
CA4Health

Jane Williams, Executive Director
California Communities Against Toxics

Nan Wishner, Board Member
California Environmental Health Initiative

Gladys Limón, Executive Director
California Environmental Justice Alliance

Elizabeth Oseguera, Senior Policy Analyst
CaliforniaHealth+ Advocates

Luis Hernandez Ramirez, Co-chair
California Hunger Action Coalition

Yvonne Gonzalez Duncan, State Director
CALIFORNIA LULAC

Stephanie Roberson, Director, Government Relations
California Nurses Association

Laura Deehan, Public Health Advocate
California Public Interest Research Group

Larry Hanson, President
California River Watch

Dolores Duran-Flores, Legislative Advocate
California School Employees Association, CSEA

Patty Clary, Executive Director
Californians for Alternatives to Toxics

Maricela Morales MA, Executive Director
CAUSE (Central Coast Alliance United for a Sustainable Economy)

Jonathan Evans, Environmental Health Legal Director
Center for Biological Diversity

Caroline Cox, Research Director
Center for Environmental Health

Dr. Ann López, Director
Center for Farmworker Families

Rebecca Spector, West Coast Director
Center for Food Safety

Kevin D. Hamilton, RRT, Chief Executive Officer
Central California Asthma Collaborative

Nayamin Martinez, MPH, Director
Central California Environmental Justice Network

Yenedit Mendez Avendano, Director of Finance and Development /Interim Co-Executive
Director
Centro Binacional Oaxaqueño

Andria Ventura, Toxics Program Manager
Clean Water Action/ Clean Water Fund

Renee Nelson, President
Clean Water and Air Matter

Bill Magavern, Policy Director
Coalition for Clean Air

Alan Levine, president
Coastal Action Group

Kassandra Hishida, Coordinator
Community Alliance for Agroecology

Larry Hanson, board member
Community Clean Water

Erica Fernandez Zamora, Director of Organizing
Community Water Center

Martha Martinez-Bravo, MA, PsyD, Community Organizer
Democratic Moms of Camarillo

Erica Martinez, California Policy Advocate
Earthjustice

Claudia Figueroa, Project Manager
East Valley Action Project

Martin Bourque, Executive Director
Melissa Cooper Sargent, Green Living Resources Director
Ecology Center

Joy Williams, Research Director
Environmental Health Coalition

Thomas Wheeler, Executive Director
Environmental Protection Information Center (EPIC)

Bill Allayaud, California Director of Government Affairs
Environmental Working Group

Pastor Trena Turner, Executive Director
Faith in the Valley

Jeannie Economos, Pesticide Safety and Environmental Health Project Coordinator
Farmworker Association of Florida

Tomás Morales Rebecchi, Senior Central Coast Organizer
Food & Water Watch and Food & Water Action

Joann Lo, Co-Director
Food Chain Workers Alliance

Larry Hanson, Vice President
Forest Unlimited

Jim Lindburg, Legislative Director
Friends Committee on Legislation of California

Charles Ivor, President
Friends of Gualala River

Raymond Krausse, president
Friends of Mark West Watershed

Lisa Archer, Director, Food and Agriculture Program
Friends of the Earth

John Mataka, President
Grayson Neighborhood Council

Casey Carlson, President
Greater Santa Cruz Federation of Teachers 2030 CFT/AFT/AFL-CIO

Niria Alicia Garcia, Bilingual Community Organizer & Youth Program Coordinator
Jackie Barshak, Member
Greenaction for Health and Environmental Justice

Frank Tamborello, Executive Director
Hunger Action Los Angeles

Pennie Opal Plant, Cofounder
Idle No More SF Bay

Kimberly Baker, Executive Director
Klamath Forest Alliance

Veronica Garibay, Co-Director
Phoebe Seaton, Co-Director and Attorney at Law
Leadership Counsel for Justice and Accountability

Belita Cowan, President
Lymphoma Foundation of America

Robin M. Whyatt, DrPH, Professor Emeritus, Department of Environmental Health Sciences
Mailman School of Public Health, Columbia University

Georgia Goldfarb, MD, Science Advisor
Malibu Monarch Project

Samuel Molina, CA State Director
Mi Familia Vota

Arcenio J. Lopez, Executive Director
Mixteco Indígena Community Organizing Project (MICOP)

Rika Gopinath and Vanessa Armstrong, Co-Chairs
Moms Advocating Sustainability

Cesar Lara, Executive Director
Monterey Bay Central Labor Council

Sergio Solís Jr., Treasurer
Movimiento estudiantil Chicanx de Aztlan.

Randa Solick, Co-Chair
National Earth Democracy Committee, US Women's International League for Peace and
Freedom

Padi Selwyn, Co-chair
Neighbors to Preserve Rural Sonoma County

Frank Egger, president
North Coast Rivers Alliance

Larry Hanson, president
North Coast River Watch

Megan Dunn, Healthy People and Communities Program Director
Northwest Center for Alternatives to Pesticides

Colin Cook-Miller, Coordinator
Oakland Climate Action Coalition

Dave Henson, Executive Director
Occidental Arts and Ecology Center

Annie Beaman, J.D., Director of Advocacy & Outreach
Our Children's Earth Foundation

Jane Nielson, board member
O.W.L. Foundation

Francisco Rodriguez, President
Pajaro Valley Federation of Teachers, AFT 1936

Susan JunFish, Program Director
Parents for a Safer Environment

Paul Towers, Organizing Director and Policy Advocate
Pesticide Action Network

Ginger Souders-Mason, Director
Pesticide Free Zone

Martha Dina Arguello, Executive Director
Physicians for Social Responsibility, Los Angeles

Robert M. Gould, MD, President
Physicians for Social Responsibility, San Francisco Bay Area Chapter

Liz Figueroa, Retired State Senator & Vice President of External Affairs for CA & NV
Planned Parenthood Mar Monte

Kian Schulman, RN, MSN, Director
Poison Free Malibu

Chris Meyer, board member
Preserve Rural Sonoma County

Eduardo Guevara, Executive Director
Promotores Comunitarios del Desierto

Maricela Mares-Alatorre, Member
El Pueblo para el Aire Y Agua Limpia de Kettleman City

Nancy Faulstich, Director
Regeneración - Pajaro Valley Climate Action

Anne Kelsey Lamb, Director
Regional Asthma Management and Prevention

Ron Whitehurst, Pest Control Advisor, Co-owner
Rincon-Vitova Insectaries, Inc.

Michael Dimock, President
Roots of Change

David Braun, Director
Rootskeeper

Brenda Adelman, president
Russian River Watershed Protection Committee

Sejal Choksi-Chugh, Executive Director & Baykeeper
San Francisco Baykeeper

Randa Solick, co-chair
Santa Cruz branch of Women's International League for Peace and Freedom

Ted Schettler MD, MPH, Science Director
Science and Environmental Health Network

Jane Nielson, president
Sebastopol Water Information Group (SWiG)

Bruce Lanphear, MD, MPH
Simon Fraser University, Vancouver BC, Canada

Keith Schildt, Chair, Slow Food California Policy Committee
Slow Food California

David Keller, board member
Sonoma County Conservation Action

Margaret Rossoff, Coordinator and Secretary
Sunflower Alliance

Vanessa Teran, Program Manager for the Clean Air Radio Project
Tequio Youth Group of MICOP

Patricia Pagaling, Executive Director
Transition to Organics

Mar Preston, Vice President
TriCounty Watchdogs

Marylia Kelley, Executive Director
Tri-Valley CAREs

Erik Nicholson, National Vice President
United Farm Workers of America

Erica Lomeli, Civic Participation & Policy Director
UFW Foundation

Pete Maturino, Agricultural Division Director
United Food and Commercial Workers Local 5

Thomas Helme, Environmental Justice Advocate
Valley Improvement Projects

Janice Schroeder, Core member
West Berkeley Alliance for Clean Air and Safe Jobs

Laura Morgan, MD

West County Health Centers

Janus Matthes, Board Member
Wine & Water Watch

Doug Parker, Executive Director
Worksafe

Cc:

Governor Jerry Brown
Brian Leahy, Director, California Department of Pesticide Regulation
Matthew Rodriguez, Secretary, California Environmental Protection Agency
Mary D. Nichols, Chair, California Air Resources Board