United States Senate
WASHINGTON, DC 20510

August 6, 2019

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

Dear Mr. Administrator:

We write to express our alarm with the recent Environmental Protection Agency's (EPA) announcement that it would reject a petition by several states and public health groups to ban the pesticide chlorpyrifos. We believe this decision to be reckless and dangerous for the health of both children and farmworkers and contrary to the requirements of federal law. We urge you to reverse course and remove this pesticide from the marketplace without delay.

The Food Quality Protection Act of 1996 (Public Law 104-170, 110 Stat. 1489) (FQPA) directs the EPA to ensure with "reasonable certainty" that "no harm" will result from food, drinking water, and other exposures to a pesticide. If the EPA cannot make this safety finding, it must prohibit residues and the use of the pesticide on food. The FQPA mandates that the EPA must consider children's special sensitivity and exposure to pesticide chemicals and must make an explicit determination that the pesticide can be used with a "reasonable certainty of no harm" to children. In determining acceptable levels of pesticide residue, the EPA must account for the potential health harm from pre-and postnatal exposures. The economic benefits of any particular pesticides cannot be used to override this health-based standard for children from food and other exposures.

There is no dispute that the EPA has not been able to make this safety finding. In fact, the EPA has repeatedly found that chlorpyrifos harms children's brains at exposures far lower than what the EPA allows. Nevertheless, it refuses to ban this pesticide supposedly because the agency is currently unable to pinpoint the precise exposures that cause this harm. Additionally, the EPA's rejection of the petition to ban chlorpyrifos has been accompanied by a new argument in which the EPA contends that the prohibition on allowing a pesticide to be on our food in the absence of an affirmative EPA safety finding does not apply to its action on public petitions. The EPA apparently now seeks to cast aside public input from its work to protect public health.

The EPA is now seeking to avoid its statutory duties by pointing to a regulation it has adopted that requires petitions to present new scientific evidence to support the requested action. However, the FQPA explicitly constrains the EPA's discretion and prohibits the EPA from retaining tolerances without a safety finding. And in this case, the EPA's own scientists have already found chlorpyrifos harms children's brains. Therefore, we strongly oppose the idea that the EPA can unilaterally over-ride this congressional mandate with an agency regulation.

Rejecting this petition and pushing off further decision until 2022 leaves the public in harm's way from a pesticide that has long been of concern to the EPA for yet many more years. Residential uses of chlorpyrifos ended in 2000 after the EPA found unsafe exposures to children. The EPA also discontinued use of chlorpyrifos on tomatoes and restricted its use on apples and grapes in 2000, and required no-spray buffers around schools, homes, playfields, day cares, hospitals, and other public places, ranging from 10 to 100 feet. In 2015, the EPA proposed to ban all chlorpyrifos food tolerances, based on unsafe drinking water contamination, which would have ended use of chlorpyrifos on food in the United States.

After updating the risk assessment in November 2016 to account for prenatal exposures associated with brain impacts, the EPA found that expected residues from use on food crops exceeded the safety standard. The EPA also found that the majority of estimated drinking water exposures from currently allowed uses of chlorpyrifos also exceeded acceptable levels, reinforcing the need to revoke all food tolerances for the pesticide.

Countless studies, including the EPA's *Revised Human Health Risk Assessment for Registration Review (2016)*, describe the threat of chlorpyrifos to healthy development of children. From these studies, we know that children experience greater exposure to chlorpyrifos and other pesticides because, relative to adults, they eat and drink more proportional to their body weight. A growing body of evidence shows that prenatal exposure to very low levels of chlorpyrifos can lead to lasting and possibly permanent neurological impairments, developmental delay, and attention deficit disorder. In the EPA's revised human health risk assessment for chlorpyrifos in November 2016, the EPA confirmed that there are no acceptable uses for the pesticide and that all food uses exceed acceptable levels, with children ages 1 to 2 exposed to levels of chlorpyrifos that are 140 times what the EPA considers acceptable.

Additionally, chlorpyrifos threatens agricultural workers who apply the pesticide. Farm workers are exposed to chlorpyrifos from mixing, handling, and applying the pesticide, as well as from entering fields where chlorpyrifos was recently sprayed. Chlorpyrifos is one of the pesticides most often linked to acute pesticide poisonings, and in many States that monitor pesticide poisonings, it is regularly identified among the 5 pesticides linked to the highest number of pesticide poisoning incidents. This is significant given widespread under-reporting of pesticide poisonings due to such factors as inadequate reporting systems, fear of retaliation from employers, and reluctance to seek medical treatment.

According to the EPA's own data, all workers who mix and apply chlorpyrifos are exposed to unsafe levels of the pesticide even with maximum personal protective equipment and engineering controls. Field workers are currently allowed to re-enter fields within 1 to 5 days after chlorpyrifos is sprayed based on current restricted entry intervals on the registered chlorpyrifos labels but unsafe exposures continue on average 18 days after applications.

In 2015, leading scientific and medical experts, along with children's health advocates, came together, under "Project TENDR: Targeting Environmental Neuro-Developmental Risks," to issue a call to action to reduce widespread exposures to chemicals that interfere with fetal and children's brain development. Based on the available and peer-reviewed scientific evidence, the TENDR authors identified prime examples of neuro-developmentally toxic chemicals "that can

contribute to learning, behavioral, or intellectual impairment, as well as specific neurodevelopmental disorders such as ADHD or autism spectrum disorder," and listed organophosphate pesticides, among them. In 2018, leading scientists involved with TENDR published an article in PLOS Medicine that found that prenatal exposure to organophosphate pesticides such as chlorpyrifos, even at low levels that were previously considered safe, are putting children at risk for cognitive and behavioral deficits and neurodevelopmental disorders. The scientists recommended phasing out chlorpyrifos.

The EPA's decision to reject the petition to ban chlorpyrifos is deeply concerning. It simply makes no sense from a public health or legal perspective for the EPA to continue to resist taking action that would protect children's brains. If you fail to reverse this decision, more children, farmworkers and American families will be exposed to this pesticide and they will suffer as a result.

Sincerely,

Tom Udall

Mazie K. Hirono

Cory A. Booker

Bernard Sanders

Edward J. Markey

Chris Van Hollen

Kamala Harris

Kirsten Gillibrand

Elizabeth Warren

Robert Menendez

Benjamin L. Cardin

Richard Blumenthal

Richard J. Durbin

Michael F. Bennet

Jeffrey A. Merkley