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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510–6175

March 31, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt:

I write with concern regarding EPA's sudden reversal[1] of its proposed decision[2] to ban the remaining uses of chlorpyrifos. Chlorpyrifos is a pesticide used on many food crops as well as on non-agricultural sites such as golf courses. It has been linked to neurological damage and other adverse health impacts. EPA's March 29 decision did not present any new scientific or legal analysis on which to base its reversal. Instead the decision states that "further evaluation of the science… is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos," and says the EPA will complete this additional evaluation by 2022. In fact, the opposite conclusion follows from a plain reading of the relevant law: since the Agency did not provide any new analysis to refute its existing scientific conclusion that the pesticide can't be used on food with a "reasonable certainty of no harm" to people who ingest it, the statute requires EPA to ban such use, not allow it to continue.

Chlorpyrifos, an organophosphate pesticide that has been in use since 1965 and was derived using World War II era nerve agent research, has long been of concern to EPA. In 2000, EPA revoked permission to include it in most products used by homeowners because of evidence that showed it caused acute symptoms such as nausea and dizziness, especially in children.[3] EPA also discontinued its use on tomatoes and restricted its use on apples and grapes in 2000, and subsequently restricted its use on other crops and around public spaces[4].

In 2007, the Pesticide Action Network North America (PANNA) and the Natural Resources Defense Council (NRDC) petitioned EPA to ban all remaining food uses of chlorpyrifos based on concerns that prenatal exposures were causing brain damage. Ultimately PANNA and NRDC filed suit when EPA failed to act in a timely manner. On August 10, 2015, the U.S. Court of Appeals for the Ninth Circuit issued an order directing EPA to respond to the

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1 https://www.epa.gov/sites/production/files/2017-03/documents/chlorpyrifos3b_order_denying_panna_and_nrdc27s_petitition_to_revoke_tolerances.pdf
2 https://www3.epa.gov/pesticides/PrePublicationCopy_16P-0280_2016-11-10.pdf last accessed on March 29, 2017
3 http://www.nytimes.com/2000/06/09/us/epa-citing-risks-to-children-signs-accord-to-limit-insecticide.html
4 https://www.epa.gov/ingredients-used-pesticide-products/chlorpyrifos

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groups' petition by October 31, 2015. On that date, EPA proposed[5] to ban all remaining uses of the chemical, citing peer-reviewed toxicological, animal and epidemiological studies as well as EPA's own modeling. One study reviewed by EPA[6] was performed by Columbia University scientists. The Columbia study compared the neurodevelopment of children born to mothers who were exposed to chlorpyrifos before indoor uses of the chemical were banned to that of children who were not exposed to it in utero. This study found that "even low to moderate levels of exposure to the insecticide chlorpyrifos during pregnancy may lead to long-term, potentially irreversible changes in the brain structure of the child."

The EPA then spent an additional year under a March 31, 2016 court-ordered deadline to finalize action on the petition, incorporating comments on and further review of its 2015 proposal, including feedback received from its own Scientific Advisory Panel which had recommended a change to EPA's methodology. EPA's revised analysis, which was published in November 2016[7], concluded that "chlorpyrifos on most individual food crops exceed the "reasonable certainty of no harm" safety standard under the Federal Food, Drug, and Cosmetic Act (FFDCA). In addition, the majority of estimated drinking water exposures from currently registered uses, including water exposures from non-food uses, continue to exceed safe levels even taking into account more refined drinking water exposures."

On Wednesday, EPA announced that it has reversed its earlier scientific and legal finding that chlorpyrifos was unsafe and should be banned, instead acting to deny the petition for the ban and stating that it would resolve the matter by 2022. I'm troubled by EPA's apparent dismissal of the extensive analysis undertaken previously by EPA scientists without providing any new scientific analysis to support this decision. The previous finding to ban chlorpyrifos was based on extensive data, models and research developed by industry, government and academic scientists. Absent such justification, this decision to lift the proposed ban could undermine the trust the public has in the agency to keep its food, water and air safe. That is particularly true since a clear and compelling scientific and legal basis for reversing the decision is absent from the materials EPA released on Wednesday as well as from the Agency's extensive public record.

So that I can review the basis for the decision, I ask that by close of business on Friday April 28, 2017, you provide me with a copy of all documents (including but not limited to emails, legal and other memoranda, drafts of legal or regulatory decisions or orders, white papers, scientific references, letters, telephone logs, meeting minutes and calendars, slides and presentations) sent or received by EPA (including documents sent or received by members of EPA's beach-head and transition teams) since November 9, 2016 that are related to EPA's response to the PANNA/NRDC petition to ban all remaining uses of chlorpyrifos.

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5 https://www.federalregister.gov/documents/2015/11/06/2015-28083/chlorpyrifos-tolerance-revocations

6 http://ccceh.org/news/april-30-2012-prenatal-exposure-to-the-insecticide-chlorpyrifos-linked-to-alterations-in-brain-structure-and-cognition

7 https://www3.epa.gov/pesticides/PrePublicationCopy_16P-0280_2016-11-10.pdf last accessed on March 29, 2017

Thank you very much for your attention to this important matter. If you have any questions or concerns, please have your staff contact Michal Freedhoff of my staff at 202-224-8832.

With best personal regards, I am,

Sincerely yours,

Tom Carper
Ranking Member