

Farmworker and Pesticides Charge to the National Environmental Justice Advisory Council
March 30, 2023

After extensive discussions with the National Environmental Justice Advisory Council's (NEJAC) Farmworker and Pesticide Workgroup, EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) and EPA's Office of Enforcement and Compliance Assurance (OECA) seeks the advice and expertise of the Council to provide technical information and recommendations to advance how the Agency:

- I. Develops new methods to provide access to information on bilingual (Spanish) pesticide labels for farmworkers;
- II. Strategizes to create a new farmworker indicator to measure progress in reducing disparities;
- III. Enhances its understanding and knowledge of exposure related to legally working children in agriculture, and
- IV. Trains inspectors who conduct Worker Protection Standard inspections.

The health and safety of America's farmworker communities is a priority for EPA. The Biden-Harris Administration is committed to ensuring agricultural workers and pesticide handlers are provided with access to information and health protections. EPA provides resources and conducts initiatives to protect the well-being of farmworkers and their communities. However, despite our hard work and successes, we know that there are still real-life issues that farmworkers are facing in the fields.

EPA is committed to continued engagement with the NEJAC's workgroup to discuss areas of concern and identify EPA activities that may take us further to address these concerns, where ultimately input can share new awareness for EPA to make meaningful changes. As a first step, the Agency presents this charge with several subjects outlined below:

I. OCSPP: Establishing Farmworkers' Access to Bilingual (Spanish) Labels

The Pesticide Registration Improvement Act of 2022 (PRIA 5) includes a new directive for EPA to generally require that sections of the labeling contained in the Spanish Translation Guide for Pesticide Labeling (Spanish Translation Guide) be translated into Spanish on containers with an option for a link to these translations via a scannable technology or other electronic methods readily accessible on the product label. The Agency is to implement these label requirements under a schedule spanning three to eight years, based on the use and relative toxicity of the pesticide product.

To get started, EPA wants to obtain early input from the NEJAC to understand how the program can build effective communication processes and mechanisms to successfully increase access and use of Spanish labels for farmworkers. EPA acknowledges concerns voiced by farmworker advocates, who believe that having bilingual pesticide labeling is critical to the well-being of farmworkers, as well as recognizing that Spanish is the first language for a significant portion of farmworker populations. The Agency understands that Spanish labels will not eliminate the entirety of pesticide exposure among farmworkers, but this effort may improve the understanding of and access to health and safety information.

Pesticide labels are designed to provide critical information about how to handle and safely use the pesticide product and avoid harm to human health and the environment. Labels also contain

information on potential hazards associated with the product and instructions in the event of a poisoning or spill.

In 2019, EPA created the Spanish Translation Guide to provide standardized language for pesticide registrants that choose to voluntarily translate parts of their labels into Spanish. When used, the guide will ensure accuracy in the translations and promote consistency in Spanish labeling. The Agency plans to use this guide as a resource for pesticide registrants as they translate sections of the label, as directed by PRIA 5. Sections of a label within the Spanish Translation Guide include: (1) Signal Word, (2) First Aid, (3) Hazards to Human and Domestic Animals (Precautionary Statements), (4) Personal Protective Equipment, (5) Storage and Disposal Instructions, (6) Keep Out of Reach of Children Statement, (7) Key Statements for Restricted Use Pesticides, and (8) the universal translation of the misuse statement - "It is a violation of Federal law to use this product in a manner inconsistent with its labeling."

By 2025, the Agency must develop an implementation plan with effective approaches for increasing farmworkers' access and use of labels with Spanish translations. EPA requests the NEJAC help the Agency focus on how to establish access of bilingual Spanish labels (e.g., paper labels or electronic method) for farmworkers in a meaningful manner. EPA is open to learning about on-the-ground communications techniques and practices to make a meaningful impact in farmworker communities.

Charge Questions

- A. What communications approaches, processes or strategies would the NEJAC recommend for ensuring Spanish labels are accessible to farmworkers? What specific approaches should the Agency avoid when implementing efforts to ensure farmworkers' access to Spanish labels?
- B. What technologies, mobile applications and internet access should the Agency consider? Would web-based labels be accessible to farmworkers? Does limited internet access provide a significant barrier?
- C. How can the Agency effectively share information with farmworkers? What should on-the-ground logistics look like? What partners should the Agency work with?
- D. What components should the Agency have within the implementation plan to increase farmworkers' access to bilingual (Spanish) labels?
- E. Beyond the Spanish language requirements in PRIA 5, the Agency is interested in learning how to improve fundamental access of labeling to farmworkers speaking non-English languages other than Spanish. What additional recommendations does the NEJAC have to improve access to these workers?

Materials listed below are provided as background information to support the NEJAC's consideration of the charge questions.

- Spanish Translation Guide for Pesticide Labeling webpage provides a guide for pesticide registrants that choose to translate parts of their pesticide product labels into Spanish.

- <https://www.epa.gov/pesticide-labels/spanish-translation-guide-pesticide-labeling>
- PRIA 5 Bilingual Labeling Requirements (attachment)

Other Related Resources

- The Occupational Pesticide Safety and Health webpage provides an overview of information to agricultural workers.
 - (English) <https://www.epa.gov/pesticide-worker-safety>
 - (Spanish) <https://espanol.epa.gov/seguridad-laboral-al-usar-pesticidas>
- The Agricultural Worker Protection Standard (WPS) webpage provides an overview of who is required to comply with WPS and a list of compliance requirements, including labeling.
 - <https://www.epa.gov/pesticide-worker-safety/agricultural-worker-protection-standard-wps>

II. OCSPP: Input on Building a New Environmental Justice Indicator

To achieve environmental justice goals and reduce disparities in environmental and health outcomes, the Agency is working to address deeper social causes. [Healthy People 2030](#) defines health disparities as:

A particular type of health difference that is closely linked with social, economic, and/or environmental disadvantage based on their racial or ethnic group; religion; socioeconomic status; gender; age; mental health; cognitive, sensory, or physical disability; sexual orientation or gender identity; geographic location; or other characteristics historically linked to discrimination or exclusion.

EPA can play a key role through our programs and as a catalyst for change. Through [EPA's FY2022-2026 Strategic Plan](#) (Strategic Plan), the Agency identified the following Agency Priority Goal: By September 30, 2023, EPA will establish at least 10 indicators to assess EPA's performance in reducing disparities in environmental and public health conditions. The Strategic Plan also identified a long-term performance goal of reducing disparities in environmental and public health conditions as measured by these new indicators by 2026.

Through clear and meaningful metrics, the Agency will be able to evaluate its success in reducing public health and environmental disparities. This effort aims to think holistically across EPA programs and with external partners, use our resources to do things differently, and demonstrate progress in reducing disparities.

Examples of potential indicators from the Strategic Plan include minimizing public health disparities such as the difference in childhood blood lead levels and the prevalence of asthma for children living in families below the federal poverty level and children living in older housing, who are often children of color. Some indicators will be centrally linked to EPA authorities while other will be more linked to EPA abilities to convene and collaborate with partners. Indicators will also represent different scales (national, regional, state, local). Please see the Agency Disparity Indicator Resources below for additional examples of proposed disparity indicators.

To support the new Agency effort outlined above, EPA is exploring development of a farmworker indicator that the Agency could address through its programs. EPA requests the NEJAC's input to help refine the focus of a potential indicator. This indicator should meet the following criteria:

- Meaningful to the public, clearly stated, and easy to understand,
- Can be affected through EPA actions or the work of our partners (with a logic model to be developed),
- Data are publicly available, reliable, and updated at least annually (Note: At this time, the Agency is open to relevant datasets beyond annual updates to learn what may be available), and
- Ability to demonstrate progress in addressing farmworker issues.

Thus far, EPA has worked to identify existing datasets that could be leveraged to develop an indicator related to farmworkers. While many datasets were identified, all have significant limitations. EPA requests that the NEJAC share ideas on significant issues that the Agency should consider for the indicator as well as input on available data and recommendations for data analysis.

Charge Questions

- A. Which types of indicators would be most meaningful to farmworker communities? Please see the Farmworker Disparity Indicator Examples below for different types of indicators.
- B. Which types of environmental/health issues are most urgent to farmworker communities and could be tracked through this effort? How can the Agency analyze certain disparities related to these environmental/health issues?
- C. What datasets are missing from the list below that would be helpful to consider (even if not available nationwide)? What are your recommendations on how to best leverage/combine existing datasets?
- D. Given the limitations of existing datasets, what are the most pressing data gaps that could be addressed for development of a future indicator? How does the NEJAC recommend that these data gaps be filled?
- E. Disparities are frequently measured between groups; however, disparities can also be measured from other reference points such as the total population. The choice of a reference point from which to measure disparity is a critical issue, especially considering the demographics of farmworkers. Which approaches do you recommend in identifying an appropriate comparison group that captures farmworker disparities? For more context, reference: [Methodological Issues in Measuring Health Disparities](#).

Materials listed below are provided as background to support the NEJAC's consideration of the charge questions.

Farmworker Disparity Indicator Examples

- Worker Protection Standard (WPS) Implementation Data (Pre- and post- testing from [WPS trainings](#), numbers of certified applicators trained)
- Enforcement Data ([EPA Enforcement and Compliance History Online WPS Dashboard](#))
- Environmental Concentration Data ([USGS National Water-Quality Assessment Project](#))
- Exposure/Biomarker Data ([CDC NHANES for pesticides and metabolites](#))
- Incident Data ([CDC SENSOR-Pesticides](#), [AAPCC – see indicator #11](#))
- Pesticide Use Data ([USDA Ag Chemical Use Program](#), [California Pesticide Use Reporting](#))
- Demographic Data ([DOL National Ag Workers Survey](#), [USDA Census of Ag/NCFH Migratory and Seasonal Farmworker Estimates](#))

Agency Disparity Indicator Resources

- [FY2022-2026 EPA Strategic Plan](#) (Review page 33, the Agency Priority Goal and Long-Term Performance Goal)
- [NEJAC Disparity Indicators Presentation](#) (Review slides 70-94, Presented to the NEJAC on November 30, 2022)

Other Related Indicator Resources

- [US Department of Health and Human Services Healthy People 2030](#)
- [CDC Environmental Justice Index](#)
- [Interdepartmental Health Equity Collaborative Compendium of Federal Datasets Addressing Health Disparities](#)

III. OCSPP: Strengthening EPA’s Pesticide Exposure Assessment of Legally Working Children in Agriculture

EPA developed the Consideration of Legally Working Children in Pesticide Assessment (Analysis), in December 2016, to evaluate how EPA considers children performing post-application hand labor tasks in the risk assessment process to ensure that EPA’s regulatory decisions are health protective. The Analysis focuses on post-application dermal exposures to adults and children working in fields previously treated with pesticides, which is known to be the predominant source of exposure for these types of working conditions.

This Analysis describes the data that EPA is aware of regarding the number of children currently actively engaged in farm labor activities, how such activities are considered in risk assessment, legal and other regulatory requirements associated with children working in agriculture, the methods used to assess the validity of current risk assessment methodologies, the data used to complete this analysis, and overall findings. EPA relies on several sources of information to understand the composition of the farm labor community. For example, the Agency uses the National Agricultural Workers Survey which conducts an employment-based, random-sample national survey of agricultural workers. EPA has used these data as part of the analysis for considering demographics and employment, including information about the number of children working in agriculture.

In May 2021, EPA consulted with the Children’s Health Protection Advisory Committee (CHPAC) through a formal charge to evaluate the exposure assessment methods to ensure they appropriately account for legally working youth. In December 2022, EPA established a short-term and long-term workplan to identify actions to address CHPAC concerns and recommendations.

As a short-term objective in EPA’s workplan to respond to CHPAC recommendations, the Agency is engaging with the NEJAC to further inform the scope of the exposure analysis. Sociodemographic data such as the types of activities that are expected for children legally working in agriculture and other factors that influence pesticide exposure from these activities, may inform uncertainties that have been identified by the CHPAC recommendations.

The Agency request that the NEJAC share quantitative information, research, and monitoring data; as well as factors to be considered for informing the analysis with additional or current information, related to legally working children in agriculture.

Charge Questions

- A. Is the NEJAC aware of additional exposure data to augment our analysis of comparative exposures between adult and children in agricultural settings?
- B. Can the NEJAC provide quantitative data and sources of information, in addition to the Department of Labor data used in the analysis, to inform these types of exposures and activities that are expected for children legally working in agriculture?
- C. The Agency currently relies upon the Exposure Factors Handbook for biometric data (i.e., body weights, surface area) for the general U.S. populations. Can the NEJAC provide additional data to reflect biometric differences amongst farmworker children populations in comparison to the general population?

Materials listed below are provided as background to support the NEJAC’s consideration of the charge questions.

- Appendix A. Consideration of Legally Working Children in Pesticide Exposure
 - EPA-HQ-OPP-2010-0119-0052. 12/22/16: <https://www.regulations.gov/document/EPA-HQ-OPP-2010-0119-0052>
- EPA Response to Letter on Youth In Ag November 2022
 - <https://www.regulations.gov/document/EPA-HQ-OA-2022-0054-0034>
- Interactions between EPA and CHPAC on the topic of Consideration of Legally Working Children in Pesticide Assessment
 - <https://www.epa.gov/children/childrens-health-protection-advisory-committee-chpac-comment-letters-and-meeting-materials>
 - May 10, 2021: <https://www.regulations.gov/document/EPA-HQ-OA-2022-0574-0008>
 - November 2, 2021: <https://www.regulations.gov/document/EPA-HQ-OA-2022-0574-0009>
 - May 18, 2022: <https://www.regulations.gov/document/EPA-HQ-OA-2022-0054-0019>

- December 1, 2022: <https://www.regulations.gov/document/EPA-HQ-OA-2022-0054-0035>

IV. OECA: Expand or Enhance Training for Inspectors Who Conduct Worker Protection Standard Inspections

EPA's Agricultural Worker Protection Standard (WPS) aims to reduce pesticide poisonings and injuries among agricultural workers and pesticide handlers. WPS inspections take place where pesticides are used or handled, which usually occurs at agricultural establishments. Pursuant to FIFRA § 26(a), states have primary enforcement responsibility for pesticide use violations and, therefore, states conduct the majority of WPS inspections. During a WPS inspection, an inspector needs to have the skills to monitor compliance with the WPS rule and to collect evidence of potential noncompliance. Inspectors may collect records, conduct witness interviews, and take statements from farmworkers and pesticide handlers. Given the importance of inspections to determining compliance with the WPS rule, the Agency wishes to enhance existing training and/or develop additional training for inspectors who conduct compliance monitoring inspections at agricultural establishments which include farms, forests, nurseries, and greenhouses.

The objective of this Agency charge is to improve WPS inspections by enhancing the skills WPS Inspectors possess to identify and document potential violations and facilitate appropriate responses. Credentialed inspectors already receive training, but that training can be enhanced to achieve a greater understanding of the unique circumstances that may be present during a WPS inspection and provide inspectors with tools to recognize and overcome barriers to effective communication with workers and handlers. The Agency would like to specifically focus training on those areas of concern raised by National Environmental Justice Advisory Council (NEJAC) representatives. Namely, NEJAC has shared that language barriers, fear of retaliation, cultural barriers, and general reticence to speak with a government representative may pose impediments when conducting WPS inspections. Examples put forward by farmworkers during the NEJAC meetings included inspectors not being able to communicate effectively with workers having first-hand knowledge of potential violations; the adequacy of records inspections; ensuring compliance with personal protective equipment requirements of the regulations, and ineffective processes for reporting violations. The Agency would like to hear more about these farmworker concerns, and any other concerns NEJAC wishes to share, so that EPA can expand or enhance inspector training. The Agency recognizes that these improvements may not address the full breadth of farmworkers' concerns. Yet, NEJAC's perspectives can greatly enrich inspector skills to potentially improve employer's compliance with WPS and enforcement outcomes. Therefore, EPA requests the NEJAC suggest how EPA can incorporate a deeper understanding of farmworker concerns about WPS inspections into training materials. Under this charge, EPA requests NEJAC's feedback on the following questions:

Charge Questions

- A. What feedback, observations, or experiences can NEJAC share about inspections to help EPA enhance training and thereby improve inspections and enforcement?
- B. What communication approaches, processes, or strategies does the NEJAC recommend to increase information sharing and build trust between WPS inspectors and farmworkers?

Material listed below is provided as background information to support NEJAC's consideration of the charge questions.

- EPA WPS How To Comply Manual
- Worker Protection Standard Inspection Manual