



## **Pesticide newsletter**

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### **Jurisdictional news**



#### **Rollback of farm worker protection against pesticides challenged in court**

The U.S. Department of the Environment (EPA) has made a number of legislative rollbacks and exemptions on pesticides under President Donald Trump. It has refused to ban chlorpyrifos, a pesticide suspected of damaging children's brains, allowed the herbicide dicamba to be used on GMO crops despite damage to surrounding crops due to its drift, renewed the approval of glyphosate-based herbicides despite thousands of complaints from users with non-Hodgkin's lymphoma, etc. It also dealt a major blow to the health and safety of farm workers by weakening protections that prevent unnecessary and dangerous exposure to pesticides by revising the rules for [application exclusion zones](#) (AEZ) on October 30, 2020.

Each year, up to 300,000 farm workers suffer from pesticide poisoning according to the Government Accountability Office. That number is likely to increase in light of the EPA's proposed rollback of farmworker protections that would now allow "unnecessary and dangerous pesticide exposure," according to Carrie Apfel, an attorney with Earthjustice's Food and Sustainable Agriculture Program.

On December 16, 2020, a coalition of environmental NGOs, farmers' and farmworkers' unions, and physicians [sued the EPA](#) to challenge the new regulations, which weaken safeguards protecting farmworkers and residents from accidental pesticide exposure. According to the plaintiffs, the EPA gutted the regulations, which are based on the application exclusion zone (AEZ), the space surrounding pesticide application, which must be free of anyone other than the trained applicator.

The new regulations now limit protection to those within the boundaries of the farm, reducing the rule previously applicable to the entire AEZ. If a person is on a neighboring field included in the AEZ at the time of pesticide application, the applicator will no longer have to stop the application. This means that nearby buildings and infrastructure can also be sprayed legally, which could ultimately result in exposure to residents. In addition, the AEZ perimeter is reduced from 100 feet to 25 feet for certain ground applications, even if those applications drift beyond 25 feet. Previously, only qualified applicators were allowed to enter the AEZ during pesticide applications. Now, the applicator will be able to continue their operation if a non-employee is on the farm, even if that person is required to be on the property as part of an easement. This reduction in AEZ protection is a double setback, both in its delineation and in who is protected.

As pesticides can have negative health effects and cause respiratory distress, Carrie Apfel denounces an unacceptable decision by a public health protection agency in the midst of a respiratory pandemic during which numerous cases of COVID-19 were detected among farm workers. The coalition is challenging a real step backwards in the protection of these stakeholders, as well as a coalition of five U.S. states that have also [filed](#) a complaint, under the aegis of the Attorney General of the State of New York.

This new regulation was supposed to go into effect on December 29, 2020, but the coalition filed an emergency motion to suspend its application. The judge delayed it until January 12, 2021. On January 20, 2021, incoming U.S. President Joe Biden ordered federal agencies to [review Trump-era rules](#) that associations say are harming public health and the environment, including these new EPA rules.

In a separate dispute, the EPA reached a [settlement agreement](#) on January 15, 2021, with the NGO Natural Resources Defense Council (NRDC) that requires the EPA to begin assessing the impacts of imidacloprid, the nation's most widely used neonicotinoid, on bees, butterflies, birds, and other threatened and endangered wildlife, as required by the Endangered Species Act (ESA).

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