



Protect America's Children From Toxic Pesticides Act (PACTPA)

The Protect America's Children From Toxic Pesticides Act, or PACTPA for short, is the most robust pesticide legislation proposed since the inception of the EPA¹. It was designed to target the most egregious problems with pesticide regulation. Each section of PACTPA addresses a specific loophole or class of pesticide that have proven especially dangerous to human and environmental health. For example, Section 3 targets EPA's excessive use of a process called an interim reregistration eligibility decision, or IRED². FIFRA requires that EPA review pesticides every 15 years³. This requirement is important because new information about pesticides is constantly emerging. Sometimes new scientific studies or epidemiological data reveal harm caused by a pesticide that was thought to be safe when it was originally registered by EPA. However, instead of completing full reviews every 15 years, EPA commonly uses IREDs in order to prolong a product's registration without undergoing a registration review⁴. If implemented, Section 3 of PACTPA would prevent EPA from using IREDs for pesticides shown to be particularly dangerous—this section would apply to pesticides that are acutely toxic, carcinogenic, harmful to pregnant women or fetuses, disruptive to the endocrine system, or neurologically damaging. With Section 3 in place, members of the public would be able to trust that EPA was reviewing all relevant science every 15 years, and not a day longer.

Unfortunately, pesticide use in the United States has become rampant. Not only is the United States the world leader in the use of these toxins⁵, the U.S. allows the use of pesticides that have been banned or are being phased out in other countries⁶. To imagine that exposure to a pesticide would be dangerous in Europe but safe in the United States is ludicrous. To address this, Section 4 of PACTPA would trigger an immediate suspension all pesticides banned in the European Union or Canada. Those pesticides would be prohibited until EPA reviews all relevant science and determines whether or how to return the pesticides safely to the marketplace.

One loophole in FIFRA enables EPA to approve a pesticide for use without a full review. Under the law, EPA may use this “fast track” for a pesticide that meet one of the following criteria: it is substantially similar to a pesticide already registered; new data is needed on expanding the use of a pesticide that is already registered; or to expedite registration for a new product by bypassing data review. This process, known as conditional registration⁷, is designed to bring solutions to farmers quickly and without delay. However, while EPA does set deadlines for pesticide companies to provide the data necessary for full review, it rarely enforces them, often receiving pesticide data years after it was due⁸. The result is the use of pesticides without EPA's full review of the data that is required by the law. Section 5 of PACTPA would force EPA and pesticide manufacturers to adhere

¹ <https://www.congress.gov/bill/117th-congress/senate-bill/3283>

² <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-155>

³ <https://www.epa.gov/pesticide-reevaluation/registration-review-process>

⁴ https://search.epa.gov/epasearch/?querytext=ired&areaname=&areacategory=&areasearchurl=&typeofsearch=epa&result_template=#/

⁵ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2946087/>

⁶ <https://ehjournal.biomedcentral.com/articles/10.1186/s12940-019-0488-0>

⁷ <https://www.epa.gov/pesticide-registration/conditional-pesticide-registration>

⁸ <https://www.epa.gov/pesticide-registration/status-conditional-registrations-under-fifra-sec3c7c-2000-through-2021>

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to the deadlines set in conditional registrations and eliminate the use of this loophole for new pesticide active ingredients. No pesticide should enter the marketplace without full review by EPA. Pesticides are too toxic to use first and submit science later.

Though it is counterintuitive, when the registration of a pesticide is canceled, there is no prohibition on continuing to use that pesticide. The pesticide cannot continue to be produced, but existing stocks can continue to be sold and used⁹. In recent years, we have seen growers rush to stockpile pesticides that may be subject to cancellation. Without a prohibition on *use* rather than *production*, harmful pesticides can continue to be used for years. Section 6 would prevent pesticides that have been canceled from being used as well as sold.

The emergency exemption¹⁰ is another function of FIFRA that was designed to help farmers but has been abused by the pesticide industry. In emergency situations, stronger chemicals may help to combat pests or disease that threaten crops. Because of the imminence of harm, EPA does not complete a full review on a pesticide approved under an emergency exemption. However, EPA does not limit the use of the emergency exemption¹¹. In some cases, EPA has used this loophole to allow the use of unreviewed pesticides for eight years. The emergency exemption functions well only if EPA is careful about the emergency use of pesticides. Section 7 of PACTPA would prohibit EPA from reusing the emergency exemption for years in a row in the same location. If EPA wishes to expand the use of a pesticide, it should go through the full registration process. Section 7 would also prevent any unregistered pesticide from being used, even in an emergency. Chemicals that have not undergone any registration by EPA have the potential to *create* an emergency, not solve one.

While many pesticide concerns are centered around active ingredients, section 8 of PACTPA addresses potential harm associated with inert ingredients. Like medicine, pesticides contain active ingredients that treat the ailment and inert ingredients that create the formula and mechanism of the product¹². Unlike medicine, pesticide inert ingredients are not disclosed on product labels. This is a significant problem because inert ingredients can actually be more dangerous than the active ingredient itself¹³. Not only are inert ingredients not disclosed, EPA is prohibited by FIFRA from requiring pesticide manufacturers to list the entire formulation of a pesticide product¹⁴. That means that people are exposed to chemicals without even knowing it. Some common inerts are carcinogenic, toxic to wildlife¹⁵, or damaging to the endocrine system¹⁶. Section 8 requires pesticide companies to list inert ingredients that are acutely toxic, carcinogenic, harmful to pregnant women or fetuses, disruptive to the endocrine system, or neurologically damaging. It removes the trade secret provision that has protected pesticide companies at the expense of health and safety for decades. People's lives are more important than secret pesticide recipes.

Sections 9, 10, and 11 would ban several pesticide active ingredients that have been found time and time again to be extremely dangerous to human and environmental health. Section 9 would ban all organophosphate pesticides. Organophosphates kill pests by attacking the nervous system, so it is no surprise that these chemicals are incredibly harmful to wildlife. In fact, when the U.S. Fish and Wildlife Service studied the impact of three organophosphates—chlorpyrifos, malathion, and diazinon—it found that the use of these pesticides jeopardizes the continued existence of 1,399

⁹ <https://www.epa.gov/newsreleases/epa-offers-clarity-farmers-light-recent-court-vacatur-dicamba-registrations>

¹⁰ <https://www.epa.gov/pesticide-registration/pesticide-emergency-exemptions>

¹¹ <https://www.gao.gov/products/t-rccd-91-83>

¹² <https://www.epa.gov/pesticide-registration/inert-ingredients-regulation#guidance>

¹³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1764160/>

¹⁴ <https://www.law.cornell.edu/uscode/text/7/136h>

¹⁵ <https://besjournals.onlinelibrary.wiley.com/doi/10.1111/1365-2664.13867>

¹⁶ <https://pubmed.ncbi.nlm.nih.gov/26927151/>

endangered and threatened species¹⁷. In 2021, EPA announced that it would be phasing out food uses of the pesticide chlorpyrifos, an organophosphate shown to cause brain damage in children¹⁸. However, other harmful organophosphates like malathion and diazinon remain in use. PACTPA would ban these nerve agents to protect human and environmental health.

Section 10 would cancel the class of pesticides known to harm pollinators, which are called neonicotinoids, or neonics for short. Neonics are commonly used as systemic pesticides, meaning that the chemicals are taken up through the root of the plant. Biting or piercing pests ingest the toxin as they eat the plant, killing them. However, neonics also persist in the nectar and pollen of plants. Pollinators like bees and butterflies can experience immediate or acute effects such as death, but there is also great harm caused by chronic exposure. The decline in pollinator populations is linked in large part to neonic use. Chronic neonic exposure weakens the immune system and makes it harder to fight off other pests and diseases. Pollinators aren't the only animals impacted by neonics—neonics have caused a decline in bird diversity in the US¹⁹, and deer exposed to neonics give birth to fawns that are stunted and less likely to survive²⁰. Emerging science is showing that neonics are dangerous to people as well. Exposure to neonics is associated with neurological and developmental disorders, including malformed heart and brain, autism spectrum disorder, and memory loss²¹. Even EPA's own reports conclude that neonics are harmful to endangered species²².

Section 11 would ban a pesticide called paraquat, one of the most acutely toxic pesticides used in the United States. One teaspoon of paraquat is fatal²³. EPA routinely reviews the registration of paraquat and tightens restrictions on use²⁴, however paraquat continues to cause injury and sometimes death every year. Chronic exposure to paraquat greatly increases risk of developing Parkinson's disease and can cause brain damage, heart failure, kidney failure, and lung scarring²⁵. While paraquat is banned in 32 countries, the amount of this chemical used in the United States has remained consistent²⁶. When a pesticide cannot be safely used, that pesticide must be removed from the market. Science is clear that paraquat is too dangerous to continue use.

Section 12 protects communities that want to enact stricter pesticide rules than what exists at the state or federal level. In the past, we have seen states override the wishes of cities and towns to enact more protective pesticide regulations²⁷. Upon passage of PACTPA, section 12 would ensure that communities have a voice regarding their exposure to pesticides.

Farmworkers are the backbone of our food system, and without them, people living in the United States would struggle to put food on the table. However, the pesticide regulatory system is not sufficiently protective of farmworkers. When it comes to pesticides, farmworkers are on the front line of exposure and bear the greatest risk²⁸. Many farmworkers are immigrants²⁹ and spend their lives contributing to the country while fearing retribution if they speak up about unsafe conditions. For most farmworkers, English is not their first language, and a significant number do not speak

¹⁷ <https://www.documentcloud.org/documents/5778894-Trump-Era-Shift-Evaluating-Pesticide-Threats-to.html>

¹⁸ <https://www.epa.gov/newsreleases/epa-takes-action-address-risk-chlorpyrifos-and-protect-childrens-health>

¹⁹ <https://www.nature.com/articles/s41893-020-0582-x>

²⁰ <https://www.nature.com/articles/s41598-019-40994-9>

²¹ <https://ehp.niehs.nih.gov/doi/10.1289/EHP515>

²² <https://www.epa.gov/pesticides/epa-releases-draft-biological-evaluations-three-neonicotinoids-public-comment>

²³ <https://www.epa.gov/pesticide-worker-safety/paraquat-dichloride-one-sip-can-kill>

²⁴ <https://www.epa.gov/ingredients-used-pesticide-products/paraquat-dichloride#action>

²⁵ <https://pubmed.ncbi.nlm.nih.gov/21269927/>

²⁶ https://water.usgs.gov/nawqa/pnsp/usage/maps/show_map.php?year=2018&map=PARAQUAT&hilo=L

²⁷ <https://www.beyondpesticides.org/assets/media/documents/lawn/activist/documents/StatePreemption.pdf>

²⁸ <https://www.thenation.com/article/archive/pesticides-farmworkers-agriculture/>

²⁹ <https://www.ers.usda.gov/topics/farm-economy/farm-labor/>

English at all³⁰. EPA provides pesticide labels, which can be very detailed and complicated, in English only. A second-hand translation of the information or not being able to read the label at all increases the chance that the pesticide will not be used correctly, which greatly raises the risk of harm to the farmworkers using the pesticide. Section 13 of PACTPA would require EPA to provide a Spanish translation of all pesticide labels, as well as additional languages when EPA knows that at least 500 speakers of that language will be using the pesticide.

Section 13 would also create the most robust pesticide incident reporting system in existence. Currently only medical providers are required to report incidents of pesticide injury or death³¹, however that reporting system misses anyone who declines medical care because of cost concerns, lack of insurance, or fear of retaliation or deportation. Section 13 would require EPA to develop an online reporting system that would be mandatory for all employers. Farmworkers would have no responsibility to report their own injuries; rather, the duty would be on the employers to report pesticide harm into the anonymous system. Upon receiving a report of harm, EPA would be required to review the pesticide label and determine if changes are necessary to prevent additional injury. This reporting system would ensure that EPA responds to all harm caused by pesticides, which would provide a more thorough understanding of pesticide injury. We rely on farmworkers to keep the country's food production running, and the least we can do is protect them from pesticides in return.

Section 14 of PACTPA would create a citizen suit provision for FIFRA. Laws like the Endangered Species Act contain such a provision, which allows members of the public to file legal claims against a federal agency for failure to follow the law. Under FIFRA, however, the entity filing a claim must be able to show that they have been injured by the agency's action. In cases of pesticide registration, injury can be too hard to prove, or there is no injury other than the fact that the agency is not following the law. Section 14 of PACTPA would provide a way for entities to hold EPA accountable and require full compliance with the law.

The last section, section 15, borrows language from the Toxic Substances Control Act on whistleblower protection³². While federal employees are protected by federal whistleblower laws, employees who work with pesticides throughout the private sector are not afforded such protection. Under section 15, any person who speaks out regarding a violation of FIFRA would be protected from retaliation. This section would apply to everyone working under FIFRA—from farmworkers to pesticide manufacturers.

PACTPA is not only the most robust pesticide reform proposed in FIFRA's history, but also it is a bill that is greater than the sum of its parts. Each section provides important change, but together they tackle the systemic problem of pesticide regulation. For decades, pesticide law has favored the pesticide industry. Under PACTPA, the balance would shift to prioritize the health and safety of people and the environment over industry profits.

This reform is extremely necessary—under the current system people and ecosystems are dying from pesticide exposure. We cannot remain in the status quo. Please ask your members of Congress to support the Protect America's Children from Toxic Pesticides Act.

³⁰ http://www.ncfh.org/uploads/3/8/6/8/38685499/fs-migrant_demographics.pdf

³¹ <https://www.epa.gov/pesticide-incidents/how-report-pesticide-incident-involving-exposures-people>

³² <https://www.epa.gov/laws-regulations/summary-toxic-substances-control-act>