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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RURAL & MIGRANT MINISTRY, ALIANZA
NACIONAL DE CAMPESINAS, EL COMITE DE
APOYO A LOS TRABAJADORES AGRÍCOLAS,
FARMWORKER ASSOCIATION OF FLORIDA,
MIGRANT CLINICIANS NETWORK, PINEROS Y
CAMPESINOS UNIDOS DEL NOROESTE, RURAL
COALITION, UNITED FARM WORKERS, and
UNITED FARM WORKERS FOUNDATION,

Plaintiffs,

-v-

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY and ANDREW WHEELER,

Defendants.

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20-cv-10645 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Upon reading Plaintiffs’ supporting Memorandum of Law; the supporting Declarations of Carrie Apfel and the exhibits annexed thereto; the sworn declarations of (1) Mily Treveino-Sauceda; (2) Nezahualcoyotl Xiuhtecutli; (3) William Jordan; (4) Amy Liebman; (5) Reyna Lopez; (6) Richard Witt; (7) Lorette Picciano; (8) Eriberto Fernandez; (9) Teresa Romero; and (10) Jessica Culley; the Government’s Memorandum of Law in Opposition to Motion for a Temporary Restraining Order, Preliminary Injunction, and Stay; the Government’s letter of December 26, 2020; the Plaintiffs’ letter of December 26, 2020; the pleadings and papers on file in this action; and the Court having heard oral argument on December 22, 2020, on the motion for a Temporary Restraining Order, Preliminary Injunction, and Stay; upon due deliberation; and for reasons to be elaborated in a forthcoming opinion, it is hereby ORDERED as follows:

1. Pursuant to Fed. R. Civ. P. 65 and 5 U.S.C. § 705, and the Court having found that Plaintiffs have established on the papers before the Court (1) a substantial likelihood of success on their challenge to the Final Rule: Pesticides; Agricultural Worker Protection Standard; Revision of the Application Exclusion Zone Requirements, 85 Fed. Reg. 68,760-01 (Oct. 30, 2020) (“Final Rule”); (2) irreparable harm; (3) that the balance of hardships tip in their favor; and (4) that such relief is in the public interest, the effective date of the Final Rule is stayed for a period of 14 days, or until January 11, 2021, pending the Court’s consideration of Plaintiffs’ motion for a preliminary injunction and further stay of

the Final Rule. Defendants, the United States Environmental Protection Agency and Andrew Wheeler, Administrator of the United States Environmental Protection Agency, are enjoined and restrained from taking any action to make effective the Final Rule prior to January 11, 2021;

2. The security requirement of Fed. R. Civ. P. 65(c) is waived because no costs or damages will flow from maintaining the status quo and because Defendants have not requested security;
3. The Court will hold a hearing at 2:30 p.m. on January 8, 2021, as to whether the stay and restraining order should be continued and a preliminary injunction granted or alternatively whether the stay and restraining order should be lifted and/or modified. Parties should dial 1-888-251-2909 and use access code 2123101;
4. To permit further judicial review, the Government is ordered to file with the Court and serve on the parties the full administrative record no later than January 4, 2021 at 5:00 p.m.;
5. The parties may file memoranda and supporting declarations in support of or in opposition to the motion for a preliminary injunction and/or continuance of the stay by no later than January 6, 2021 at 5:00 p.m. The parties should indicate in those papers whether they intend to call witnesses at the January 8, 2021 hearing.

SO ORDERED.

Dated: December 28, 2020
New York, New York



LEWIS J. LIMAN
United States District Judge