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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

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Dennis Howard, President
Association of American Pesticide Control Officials (AAPCO)
c/o Maryland Department of Agriculture
Pesticide Regulation Section
50 Harry S. Truman Parkway
Annapolis, MD 21401-7080

Dear Mr. Howard,

Thank you for your August 17, 2016 letter conveying AAPCO's concerns with the implementation of the 2015 revisions to the Worker Protection Standard (WPS). This letter responds to your concerns for Train-the-Trainer (TTT) course materials and the Application Exclusion Zone (AEZ). Recognizing that EPA and state officials have engaged in numerous communications related to WPS implementation activities, this response follows the letter sent by Jim Jones to Dr. Robert Waltz on August 29, 2016, which was a separate effort by EPA to update State Agricultural Secretaries, Commissioners, and Directors.

Regarding your concerns with the availability of EPA-approved TTT materials and programs and qualified WPS trainers, EPA has offered the following solutions to help address the concerns:

1. **State-approved TTT programs:** States can continue to use their existing TTT materials through 2017 if the materials are updated with information regarding the 2015 rule requirements and approved by EPA. EPA will review the materials each state submits and upon approval, will notify the submitter of the EPA approval number. Under this process, EPA will permit retroactive approval of trainers who have previously completed the TTT course. Upon approval, the submitter must contact their previously-trained trainers and provide the training administration updates and a summary of the WPS changes (for example, the Comparison Table and the Quick Reference Guide) to ensure the trainers are aware of the rule changes for 2017. The submitter will communicate the EPA approval number to the trainers for their records.
2. **EPA-approved TTT courses:** EPA has, so far, approved one TTT course that can be used nationally. At this time, the course covers only the 1992 training content, and it prepares the trainer to train only workers. When this program is released, EPA will notify AAPCO, other stakeholders, and those who may opt to rely on this material to train trainers of workers in 2017. Through the cooperative agreement EPA has with University of California Davis Extension and Oregon State University, EPA is also developing a TTT course that is

expected to be nationally available, and will cover the expanded content from the 2015 rule for worker and handler trainers. The course will be available in the near future.

EPA recognizes the concerns of our co-regulators and the regulated/agricultural community and is aware of the pressures to meet the new requirements of the revised WPS. However, EPA believes that the solutions listed above, in concert with our other ongoing implementation activities, will enable growers and trainers to meet the requirements of the 2015 revisions without the need for a delay in implementation. EPA believes it is more prudent to move forward with WPS implementation and use this time to identify field issues and work to resolve those issues as we proceed.

Regarding the AEZ issue, EPA has developed and released an interpretive guidance policy to address previous concerns raised by states related to the meaning of the term “suspend application.” EPA believes this AEZ interpretive guidance policy addressed some of the most significant concerns with the AEZ requirement, and has engaged in significant outreach and training with our Regions, states and tribes on this specific issue as well as other WPS implementation areas. However, EPA is also aware that there are additional AEZ concerns being raised as states begin to wrestle with implementing this new requirement such as the “shelter-in-place” issue raised by the Oregon Department of Agriculture (ODA) and issues with easements on agricultural establishments and how the AEZ provisions apply to persons in easements.

EPA’s Certification and Worker Protection Branch (CWPB) is committed to continuing its work to respond to requests for additional interpretive guidance policies to address the AEZ and other WPS implementation issues as they arise. CWPB is currently coordinating with ODA, Oregon Occupational Safety and Health Administration and EPA Region 10 to resolve the AEZ “shelter-in-place” issue. CWPB is also working separately to address other AEZ issues that have been identified and will continue to work with states to develop solutions that meet the protective goals of the AEZ, which could include equivalency determinations. EPA will also continue to coordinate with the AAPCO WPS workgroup on the development of new WPS interpretive guidance policies as it did with the AEZ interpretive guidance policy.

EPA looks forward to continuing to work with AAPCO, the AAPCO WPS Workgroup and all WPS stakeholders as we move forward with our WPS implementation effort to ensure these important workplace protections are provided to agricultural farmworkers and pesticide handlers.

Sincerely,



Jack E. Housenger, Director
Office of Pesticide Programs
U.S. Environmental Protection Agency