



SOUTH DAKOTA DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

523 East Capitol Avenue
Pierre, SD 57501
Phone: 605.773.5425 Fax: 605.773.5926
sdda.sd.gov

July 9, 2019

Mr. Rick P. Keigwin
Director of Office of Pesticide Programs
USEPA Headquarters William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Mr. Keigwin:

The South Dakota Department of Agriculture (SDDA) has grave concerns about the impact the Environmental Protection Agency's (EPA) proposed change to the use of 24(c) registrations by state regulatory agencies could have on the safe and effective regulation of agricultural chemicals in South Dakota. 24(c) registrations are an important and necessary tool for state regulatory agencies to address special local needs unique to a particular state or region and past experience has shown that the current, long-standing, process is effective and working for state regulatory agencies and the constituents with whom they work.

The SDDA understands that the use of 24(c) registrations to establish cut-off dates for products has been burdensome to the EPA and is sympathetic. However, the use of 24(c) registrations to establish cut-off dates is historically supported and the only way for the SDDA to respond appropriately to a need for additional regulation of specific products.

Historically, 24(c) registrations have been issued for a wide variety of state-determined reasons, including adding use sites, pests or application methods, changing the timing of applications or conditions, or adding environmental safety restrictions. As you're aware, the most recent use of 24(c) registrations to establish cut-off dates has been for formulations of dicamba that have displayed increased potential for drift in warmer conditions. While this is the first year the SDDA has pursued a 24(c) registration to establish a cut-off date for these products, many states have acquired 24(c) registrations for multiple growing seasons. The variety of cut-off dates implemented support the argument that these cut-off dates are part of a larger response by states to address the "special local needs" they are facing in their particular state or region.

The SDDA took a cautious and thoughtful approach to registering these dicamba products, granting yearly registrations, instead of the typical multiyear registrations. This has allowed the SDDA to be nimble and responsive to on-the-ground impacts in applying parameters for applications of these products. For the 2019 growing season, the SDDA pursued, for the first time, a cut-off date for these products via the 24(c) registration process. The SDDA did not take its application for 24(c) registration for these products lightly and relied on close examination of drift complaints and feedback from producers, retailers, applicators, and inspectors before deciding a June 30th cut-off date was the best way to ensure that South Dakota producers have access to this technology, while also decreasing the incidence of drift involving these products.

It has been suggested that states could use the 24(a) process to establish additional restrictions, instead of the 24(c) process. Unfortunately, that process is not practical in South Dakota, and many states that have part-time legislative sessions and narrow windows to change rules and statute. Reliance on the 24(a) process would hamper the SDDA's ability to appropriately respond to additional data and feedback in a timely manner while also giving constituents advance notice of restrictions as they make planting and purchasing decisions.

As co-regulators, the EPA should look for ways to give states additional tools to establish label requirements that make sense for their particular area. It should not look to take away tools, particularly a tool that has been as successful as the 24(c) registration process has been. Rather, the SDDA would propose that EPA clarify that states can use 24(c) registration to establish additional restrictions on a product when warranted.

Thank you for your attention to this important issue. The SDDA is happy to provide any additional information that may be helpful to the EPA. Please direct any questions to Tom Gere, Assistant Agricultural Services Director, at tom.gere@state.sd.us.

Sincerely,



Kim Vanneman
Secretary of Agriculture