



January 13, 2022

Carolyn Schroeder
Pesticide Re-Evaluation Division, Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001

Submitted electronically via Regulations.gov

RE: Comments: EPA-HQ-OPP-2021-0831-0002; Pesticides: Certification of Pesticide Applicators; Extension to Expiration Date of Certification Plans

Dear Ms. Schroeder;

The Association of American Pesticide Control Officials (AAPCO) appreciates the opportunity to comment on the Environmental Protection Agency's (EPA) extension to the expiration date of existing Federal, state, territory, and tribal certification plans from March 4, 2022 to November 4, 2022. AAPCO supports an extension, however, does not believe the November 4, 2022 date provides sufficient time for EPA to complete the detailed final reviews of the remaining plans and for the certifying authorities to address all comments and submit any necessary revisions for a second review and approval by EPA prior to the deadline. AAPCO requests that the extension to the expiration date of certification plans be extended an additional 24 months to November 4, 2024. Failure to provide additional time runs counter to the expressed purpose of the 2017 revisions to the Certification of Pesticide Applicators Rule to ensure restricted use pesticides (RUP) are used safely and reduce the likelihood of misapplication of RUPs. We share the common goal of assuring final plans meet this purpose and are of a quality that can stand the test of time.

The 2017 Certification of Pesticide Applicators Rule required that certifying authorities submit revised certification plans by March 4, 2020 and provided EPA until March 4, 2022 to review and approve the revised plans. All certifying authorities met the March 4, 2020 deadline. EPA is not able to meet its deadline for review and approval of the plans submitted by March 4, 2022. As of the date of notification of the extension to the expiration date of certification plans, the EPA reported EPA Regions completed preliminary reviews of

all plans and EPA Headquarters has completed the final review of slightly more than half of the 67 plans submitted since March 4, 2020. No information was provided regarding the number of plans for which EPA has completed the final review that have subsequently been revised by the respective certifying authority, resubmitted and undergone the second review by EPA nor the number of plans that have been approved by EPA

AAPCO acknowledges the extensive review necessary to ensure revised plans meet the requirements of the revised rule and the amount of time required to complete the reviews. The level of detail and the length of time until completion of EPA's review ensures that revised plans meet the federal requirements and provide protections to pesticides applicators. AAPCO also recognizes the impacts of COVID-19 on EPA's ability to complete the required reviews and approvals. Based on the time it has taken to complete the final review of approximately half of the total plans submitted, an additional eight months does not seem adequate for EPA to complete the remaining reviews and the subsequent review and approval of revised plans. Additional time is needed. The same acknowledgement and allowance must also be provided to the certifying authority.

Upon completion of EPA's final review and after comments have been shared with the certifying authority, the certifying authority is required to make revisions which are then resubmitted to EPA for review prior to approval. Assuming the EPA could complete review of the remaining plans by the newly established expiration date and provide comments to the certifying authority, the amount of time is inadequate for the certifying authority to make the necessary changes and resubmit their revised plan for approval. Keeping in mind that these plans will be in place long into the future, this is a process that cannot and should not be rushed. Certifying authorities need adequate time to address and resolve EPA's comments. This may require the certifying authority to seek input and approval from within and outside their organizations to be able to accurately address EPA's comments prior to resubmitting for review and approval. In addition, certifying authorities are required to provide a current legal written opinion from the "*State attorney general or from the legal counsel of the State lead agency that states that the lead agency and other cooperating agencies have the legal authority necessary to carry out the State certification plan*". The ability of certifying authorities to provide this letter is highly dependent on legal counsel's reviewing the plan and any requirements requiring changes to the plan. For states that have not yet received comments or if comments are substantive, adequate time is needed. This is further complicated by the ongoing public health crisis with many parts of the country seeing significant impacts to staffing resources coupled with competing priorities. In addition, while some certifying authorities have received final comments from EPA, approximately half have not with some having not received any comments to date. Not providing adequate time for certifying authorities to review and make the necessary revisions to increase protections as provided for in the 2017 rule has the potential to have detrimental impacts on pesticide applicator safety and increase the likelihood of misapplications of RUPs.

AAPCO respectfully requests that the expiration date of current certification plans be extended from November 4, 2022 to November 4, 2024 to allow adequate time for EPA to complete the detailed final review of revised plans and for certifying authorities to make

those revisions necessary for plan approval. For clarification, AAPCO's request to extend the expiration date to November 4, 2024 refers to the additional time that is necessary for EPA to complete the final review of all outstanding revised plan, certifying authorities to revise their plans and resubmit to EPA for a second review, and for EPA approval only and does not reflect the time needed for certifying authorities to fully implement plans once approved. In many cases, the final plan will require amendments to laws and regulations and the amount of time that is needed to make regulatory changes will vary as will the time needed to implement other portions of the approved plan based on the respective certifying authority's rule making process and resources. Implementation timelines are included as part of all plans and reflect the certifying authority's ability to implement the increased protection of pesticide applicators. The extension ensures continual protection of pesticide applicators and provides EPA and certifying authorities the time needed to continue to work together to realize approval of plans and ultimately successful implementation of the 2017 Certification of Pesticide Applicator Rule.

As always, AAPCO is committed to continuing to work with EPA, its membership and other stakeholders groups throughout this process.

Thank you for your consideration.

Sincerely,



J. Patrick Jones, President
North Carolina Department of Agriculture and Consumer Services



Liza Fleeson Trossbach, President Elect
Virginia Department of Agriculture and Consumer Services