



May 12, 2023

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: Agricultural Worker Protection Standard; Reconsideration of the Application Exclusion Zone Amendments – Docket No. EPA-HQ-OPP-2022-0133

Dear Ms. Schroeder:

The Association of American Pesticide Control Officials (AAPCO) was formed in 1947, the same year Congress enacted the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). AAPCO is a professional association comprised of the officers charged by law with the execution of the state, territorial, provincial, and federal pesticide laws in the United States, including all its territories, and in Canada. The Environmental Protection Agency (EPA) and States are co-regulators in implementing and enforcing FIFRA. Our mission is to represent state pesticide control officials in developing, implementing, and communicating sound public policies and programs related to the sale, application, transport, storage, and disposal of pesticides.

AAPCO has long-supported pesticide safety measures and provisions that protect workers, handlers, and bystanders. As such, we are strongly interested in the proposed rule changes to the Worker Protection Standard (WPS) Application Exclusion Zone (AEZ) provision. On March 28, 2023, at the request of the AAPCO Worker Protection Committee, EPA hosted a call with all states to provide an overview of the proposed rule and answer questions. Since that call, the top concerns voiced by states relate to enforcement. State regulatory officials are concerned with the feasibility of properly identifying and documenting violations of the provisions as currently drafted. The ability to accurately measure and properly document the distance from moving application equipment and persons in the area (whether on or off the agricultural establishment) will be challenging.

Regarding the proposed exemption for owners and their immediate family members from leaving the AEZ when they remain inside closed buildings on the establishment, compliance relies on clear communication between the owner and the applicator. Still unclear is what type of communication

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exchange is required to be sure buildings are vacated if occupied by individuals other than the owner or immediate family members, particularly in situations involving labor housing adjacent to the application site and the use of commercial pesticide handler employers. Clarification is needed on who must provide notification and how compliance will be determined.

Further, during the call on March 28, 2023, state regulatory officials expressed concern over the complexity of the proposed rule. Education will be of the utmost importance as the final provisions are rolled out. In the docket, EPA indicates an interest in feedback regarding approaches to address concerns of state enforcement agencies. AAPCO requests that EPA create a how-to-comply manual or interpretive guidance on the Application Exclusion Zone for all stakeholders. AAPCO further requests that training for state regulatory officials, specifically pesticide inspection staff, be developed and provided.

AAPCO appreciates the opportunity to provide feedback on current issues. We ask that EPA fully consider all stakeholders who comment on the Application Exclusion Zone amendments. AAPCO is committed to helping states prepare for changes and working with EPA on implementation.

Sincerely,

Megan Patterson, President

AAPCO