1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700

Kansas
Department of Agriculture
agriculture.ks.gov

900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

November 28, 2016

Mr. James J. Jones
Assistant Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. N.W.
Mail Code: 7101M
Washington, D.C. 20460

Assistant Administrator Jones:

I appreciate the explanation regarding outreach, communication and training related to the implementation of revised agricultural worker protection regulation included in your August 29th letter. However, my larger concern lies with the revised regulation itself and the manner in which significant input from industry and states regarding the regulation seems to have been ignored by EPA in writing the revised regulation. Furthermore, the challenges of implementation are directly linked to concerns with the regulation. In fact, many of the comments against the proposed regulation related to the difficulty of implementing such intrusive and far-reaching rules.

In the Kansas Department of Agriculture comments on the regulation we highlighted the following concerns which were not addressed in the final rule:

- Economic Impact: EPA has continued to underestimate the impact on industry as well as state and local governments.
- Training Requirements: We don't support separate annual training requirements and believe this should be conducted concurrently with the individual state's training on pesticide handling. In addition, all education and training should be consistent with and complimentary to state-based training requirements. Requirements to train individuals on environmental concerns, as an example, are not in the purview of the worker protection regulation. Extensive technical knowledge of a pesticide has little practical application and the rule should remain focused on worker protection. Applicator-specific knowledge of the products in question should be delivered in applicator training. Finally, the elimination of the handler training exception for certified applicators is a mistake. Certified applicators are already identified as acceptable trainers for handling. Handler training points are covered in certified applicator training and requiring additional training that will be remedial and redundant for applicators is a poor use of resources.
- Handler Requirements: Farms and forests are included in entry-restricted-areas which the rule now calls application exclusion zones. This adds no value beyond the existing requirement to avoid applying pesticide on people.

ED_002917_00002013-00001

While I understand your efforts in rolling out the revised regulation, I will reiterate that the bigger issue is the revisions to the regulation. Kansas is aligned with the NASDA position on delaying implementation of the revised worker protection regulation until at least January 2018. In September 2016 NASDA embarked on an effort to underscore the importance of cooperative federalism and a true state-federal partnership. Rolling out a revised regulation to be implemented without the support of your state partners does not match with the ideals of cooperative federalism.

Sincerely,

Dr. Jackie McClaskey, Secretary
Kansas Department of Agriculture

Cc: Dr. Barbara Glenn, CEO, National Association of State Departments of Agriculture
Mr. Mark Hague, Regional Administrator, EPA Region 7
Mr. Richard Fordyce, Director, Missouri Department of Agriculture
Mr. Bill Northey, Secretary, Iowa Department of Agriculture and Land Stewardship
Mr. Greg Ibach, Director, Nebraska Department of Agriculture