COMMONWEALTH of VIRGINIA

Sandra J. Adams
Commissioner

Department of Agriculture and Consumer Services
PO Box 1163, Richmond, Virginia 23218
Phone: 804/786-3501 • fax: 804/371-2945 • Hearing Impaired: 800/828-1120
www.vdacs.virginia.gov

November 28, 2016

The Honorable Gina McCarthy
Administrator, U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460-0001

RE: Request for Extension to Worker Protection Standard Implementation Timeline

Dear Administrator McCarthy:

The Virginia Department of Agriculture and Consumer Services (VDACS) respectfully requests that the Environmental Protection Agency (EPA) extend the implementation of all revised provisions of the Agricultural Worker Protection Standard (WPS) (40 CFR 170, as published in the Federal Register on November 2, 2015) until January 2, 2018. As the state lead agency (SLA) for pesticide regulation in Virginia, VDACS is responsible for enforcing provisions of the revised WPS and firmly believes that the current implementation timeline will not support the activities necessary to ensure compliance.

The EPA had previously indicated their commitment to provide all of the necessary guidance and compliance materials by October of 2016, however, EPA has not yet finalized and delivered adequate enforcement guidance, educational materials, and training resources to the SLAs. The original three month period (October 2016 – January 2, 2017) proposed by EPA for implementation would not have provided adequate time to conduct the necessary outreach/education and compliance assistance to agricultural producers and agricultural applicators that fall under WPS. In most states, including Virginia, recertification or continuing education courses required to maintain applicator certification are currently underway and extend into early spring. These upcoming continuing education courses provide the best opportunity to disseminate information to the regulated industry. In addition, if the regulation is implemented as scheduled, additional outreach and education efforts will be necessary to contact those private applicators who do not apply restricted use pesticides (and therefore do not attend recertification courses), but use products with the WPS requirements. It is important to note that providing timely outreach and education to the regulated community is vital to ensuring compliance.

VDACS is also concerned by the lack of EPA funding to SLAs to effectively implement the rule changes and assist the regulated community with compliance activities. If financial

resources are not provided, SLAs will need to use existing resources to manage the implementation, which could further delay outreach efforts and thus impede full compliance.

VDACS appreciates EPA's ongoing efforts to complete and provide outreach and educational materials to SLAs. These resources are imperative to ensure the successful implementation of the revised provisions of WPS. The absence of the necessary educational and financial resources coupled with an insufficient period for compliance assistance has left SLAs unable to provide the outreach to the regulated industry that is necessary to ensure compliance. VDACS urges EPA to reconsider the current timeline and extend the implementation date to January 2, 2018.

Thank you for your consideration.

Sincerely,

Sandra J. Adams
Commissioner

cc: Charles Green, Deputy Commissioner
Larry M. Nichols, Director, Division of Consumer Protection
Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services
NASDA