



**United States Department of Agriculture**  
Office of the Chief Economist  
Office of Pest Management Policy  
1400 Independence Avenue, SW  
Washington, D.C. 20250-3810

July 24, 2024

Edward Messina, Director  
Office of Pesticide Programs (7501M)  
Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

Re: FIFRA 25(a) Review of draft final rule: “Pesticides; Agricultural Worker Protection Standard; Reconsideration of the Application Exclusion Zone Amendments”

Dear Mr. Messina:

Thank you for the opportunity to comment on EPA’s draft final rule “Pesticides; Agricultural Worker Protection Standard; Reconsideration of the Application Exclusion Zone Amendments” delivered on July 9, 2024. USDA supports EPA’s efforts to create pesticide policies that protect human health and the environment. Farmworkers are vital to ensuring our nation’s food supply and overall economy, and their health and protection is critical.

In the final rule, we appreciate EPA’s inclusion of the provision that notes when a suspended application can resume as well as the allowance for farm owners and their families to remain in the home during pesticide applications. These changes will help to allay confusion and logistical issues with implementing the Application Exclusion Zone (AEZ).

In both our initial 25(a) letter (dated December 23, 2022) and in comments submitted to the docket (dated May 12, 2023), USDA noted the importance of EPA’s AEZ Guidance documents issued in 2016<sup>1</sup> and 2018,<sup>2</sup> that clarified how an applicator could resume a suspended application if individuals are within the area of the AEZ but outside of the agricultural establishment. The 2015 final rule did not specify when applications could resume which created the need for guidance. That guidance permitted applicators to evaluate the situation and resume applications if they determined it was possible to “continue without [the application] resulting in contact with any nearby workers or other persons.” In our comments, we noted the importance of that

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<sup>1</sup> Q&A Fact Sheet on the Worker Protection Standard Application Exclusion Zone (AEZ) Requirements. 2016. <https://www.regulations.gov/document/EPA-HQ-OPP-2017-0543-0007>

<sup>2</sup> Worker Protection Standard Application Exclusion Zone Requirements, Updated Questions and Answers. 2018. <https://www.regulations.gov/document/EPA-HQ-OPP-2017-0543-0008>

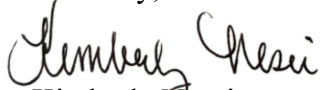
guidance. In reviewing the comments on the draft proposed rule, it seems stakeholders who will be most impacted by this rule submitted their comments under the impression that the guidance would remain in place. We now understand that EPA, in finalizing this rule, will rescind these guidance documents because the rule itself clarifies that applications can resume once individuals have left the AEZ.

To protect bystanders from drift and to ensure coverage of the fields they are treating and compliance with other label instructions, applicators are responsible for making many application decisions including their own drift calculations based on wind speed and direction. The standard 25 or 100-foot AEZ for may not always be protective of bystanders in or near the AEZ; indeed, there may be cases where 25 or 100 feet is not protective. For example, a pesticide application occurring 20 feet from people with 10 mph wind blowing away from those individuals is far less likely to result in contact than an application 100 feet away with 2 mph light, variable wind. While we are not objecting to the final rule, we feel it is important to note that a standard AEZ cannot definitively prevent bystander contact. It also places another burden on growers and applicators that is not necessarily guaranteed to reduce incidents or exposure.

Applicators are professionals who are responsible for many decisions and work to ensure the products that they are applying reach the target. We encourage EPA to consider future guidance that recognizes the informed decision making and expertise that applicators routinely exercise. We also believe that policy solutions to support and capitalize on existing professionalism in pesticide applications (e.g., training programs, communication) and incentivize the use of technological tools that inherently reduce pesticide exposures may be more likely to result in reduced incidents and bystander exposure.

Thank you for the opportunity to review this draft final rule under FIFRA 25(a). Please contact Michelle Ranville at [Michelle.Ranville@usda.gov](mailto:Michelle.Ranville@usda.gov), or me at [Kimberly.Nesci@usda.gov](mailto:Kimberly.Nesci@usda.gov), if OPMP can provide any information regarding this issue now or in the future.

Sincerely,



Kimberly Nesci

Director, Office of Pest Management Policy

cc: Anne Overstreet, Director, Pesticide Reevaluation Division