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December 15, 2014

Bill Northey
Secretary of Agriculture

Dr. Gretchen Paluch
Pesticide Bureau Chief

Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 E 9th Street
Des Moines, IA 50319

RE: Petition for Rule Making Relating to Pesticides

Secretary Northey and Dr. Paluch,

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Cedar Rapids
Vice President Tony Thompson,
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Chris Petersen, *Clear Lake*
Gabrielle Roesch-McNally, *Ames*
Jerry Rosman, *Harlan*
Donna Winburn, *Grinnell*

Enclosed please find a Petition for Rule Making requesting that the Iowa Department of Agriculture and Land Stewardship (IDALS) amend certain administrative rules relating to the regulation of pesticides. This petition is filed on behalf of the Iowa Farmers Union (IFU). Please file-stamp and return the enclosed additional copy of the petition to me at the above address.

Since 1915, IFU members have worked together to strengthen the independent family farm and to provide Iowans with sustainable production, safe food, a clean environment and healthy communities. Our farmer members operate farms across the state of Iowa ranging from less than 2 acres to more than 2,000 acres and producing a diverse array of agricultural products, including corn, soybeans, small grains, livestock, dairy, fruits and vegetables, organic and specialty crops, and value-added agricultural goods.

Many of our farmers produce conventional commodity crops and rely on commercial pesticide application as a standard part of their farming operations. We also represent a growing number of farmers who are beginning or transitioning to operations that include non-GMO commodities and organic and specialty crops that are vulnerable to potential damage from off-site pesticide spray drift. Our hope is that the common sense changes proposed in the enclosed petition will help to build on IDALS existing framework in a way that will better allow for a variety of farm types to co-exist and prosper side-by-side and promote increased diversity in Iowa agriculture.

Thank you for your thoughtful and timely consideration of this petition.

Sincerely,

Jana M. Linderman
President

Phone: (319) 651-2250

Email: jlinderman@iowafarmersunion.org

IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Petition by the **Iowa Farmers Union**
for the Amendment of Rules and Adoption
of Rules Relating to Pesticides

PETITION FOR
RULE MAKING

On behalf of the family farmer members of the Iowa Farmers Union (IFU), we submit the following petition to the Iowa Department of Agriculture and Land Stewardship (the Department) to request a rule making to amend and adopt certain rules within the authority of the Department's Pesticide Bureau.

As Iowa's oldest general farm organization, IFU has a long history of representing a diverse array of independent family farms. Our current membership includes many conventional corn and soybean farmers who commonly rely on synthetic pesticides as a standard part of their farming operations. At the same time, our members include an increasing number of specialty crop, fruit and vegetable, and organic farmers whose operations are vulnerable to significant damage from pesticide spray drift and drift volatilization.

In 2013, there were nearly 800 USDA-certified organic farms in Iowa, a number that has grown significantly over the past decade. This type of high-value, labor-intensive model of farm production represents an especially critical economic opportunity for our beginning farmers, as they seek to enter farming at a time of historically high land prices and input costs. Regardless of the farming model that they have chosen to adopt, our members share a common commitment to finding a way for all types of family farms to exist and thrive side-by-side. As more of Iowa's conventional commodity production is inter-mixed with smaller parcels of specialty, fruit and vegetable, and organic crops, successful co-existence will require making improvements to the rules and best management practices for pesticide use.

We greatly appreciate the efforts that the Department and its Pesticide Bureau already have put into addressing the problems that have arisen in the context of pesticide misuse and spray drift. The rule changes proposed in this petition are based on feedback gathered from our members and partners in the farming community and are intended to deter bad actors, encourage good actors, and assist the Department in providing the best possible service to Iowa's farmers.

We also recognize that some of the shortcomings in the current process of dealing with reported incidents of pesticide misuse and spray drift arise from a lack of resources for the Department's Pesticide Bureau. Therefore, in conjunction with the rule changes that we are requesting, we also will be working via the legislative process to support more funding and increased capacity for responding to reports of spray drift, providing information and educational material to the public and impacted parties, and upgrading the Pesticide Bureau website.

We believe that these proposed changes will help to maintain the diversity of Iowa's system of agricultural production and promote the economic viability of a new generation of independent family farms.

Therefore, in accordance with Iowa Code sec. 17A.7, we hereby petition the Department to make the following amendments and additions to its rules regarding pesticides:

1. Certification and Licensure of Commercial Pesticide Applicators

Iowa Administrative Code sec. 45.22(17)c(5)e and 45.52(1)a
[Iowa Code sec. 206.5-6.7]

These sections of the Administrative Code provide certification and continuing education requirements for commercial pesticide applicators. We request that the rules be amended to require that commercial applicator training include information on the potential financial impacts of pesticide spray drift on non-GMO commodities, sensitive crops, and bee apiaries. Such adverse impacts range from partial crop loss to loss of a price premium to more costly damages such as loss of organic certification. Providing better information regarding the type and degree of financial impacts for these farming operations would help educate applicators and incentivize them to take proper precautions in proximity to sensitive sites.

2. Evidence of Financial Responsibility by Commercial Pesticide Applicators

Iowa Administrative Code sec. 45.22
[Iowa Code sec. 206.13]

This section of the Administrative Code regulates the certification and licensing of commercial pesticide applicators. We request that the rules be amended to expressly require all commercial applicators to furnish the Department with evidence of financial responsibility as a pre-condition for certification and licensure, as provided for in Iowa Code sec. 206.13. In addition, any evidence of financial responsibility furnished to the Department by commercial pesticide applicators should be made publicly available by the Department, to better assist potentially impacted parties who are attempting to recover damages from incidents of spray drift.

3. Reporting and Record Keeping by Commercial Pesticide Applicators

Iowa Administrative Code sec. 45.26
[Iowa Code sec. 206.14-6.15]

This section of the Administrative Code requires commercial pesticide applicators to maintain certain records pertaining to pesticide applications. We request that the rules be amended to require that such records be provided to the Department on a monthly basis, rather than only as requested by the Department. In addition, where a reported incident of pesticide spray drift has impacted a human, a sensitive crop or a bee apiary, information pertaining to that incident should be made publicly available by the Department. Making records and reports better and more widely available would allow all parties concerned to more accurately and easily assess whether and where spray drift and related adverse impacts have occurred.

4. Notification Requirements for Sensitive Crop and Apiary Registries

Iowa Administrative Code Sec. 45.22(17)b(7) and 45.31(2)

These sections of the Administrative Code contain rules relating to the sensitive crop registry and the apiary (bee) registry. In addition to the current requirements of these sections, we request that commercial pesticide applicators and applicator consultants be required to provide at least forty-eight (48) hours advance notice to all individuals on the sensitive crop registry and bee registry who are located within a five (5) mile radius of the proposed pesticide application site. Such notice would allow farmers and other individuals to avoid being outside during an application and also would allow impacted parties to know where and when pesticide has been applied in the event that a suspected incident of spray drift occurs.

5. Penalties for Rule Violations by Commercial Pesticide Applications

Iowa Administrative Code sec. 45.102(4)
[Iowa Code sec. 206.11, 206.19, 206.22]

This section of the Administrative Code addresses civil penalties for rule violations by commercial pesticide applicators. The current maximum fine is set extremely low at \$500 per violation. Even in the minority of cases where a fine is actually assessed, it generally is not for the maximum amount. In reality, this modest amount of money cannot adequately deter future violations or encourage greater care when pesticides are applied in proximity to sensitive sites. Several hundred dollars assessed to a large commercial applicator pales in comparison when damages to the impacted farmer can range in the thousands or tens of thousands of dollars. While the Code places a cap on civil fines per violation, the rules should provide for maximizing fines where multiple violations have occurred as part of a single incident, where the damages are particularly costly or of a nature not covered by the violator's business liability insurance, or where the offender has a history of repeated violations. The rules also should provide for referrals for criminal prosecution, pursuant to Iowa Code sec. 206.22, where the Department is aware that such violations have occurred.

6. Resources for Individuals Impacted by Pesticide Spray Drift

PROPOSED NEW SECTION TO THE ADMINISTRATIVE CODE:

We request that the Department create a new section in the Administrative Code focused on protecting the rights of Iowans who have been adversely impacted by spray drift either via personal contact or via contact with their crops or bees. At a minimum, this new section should:

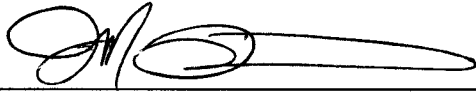
- Set forth a clearly defined investigative procedure through the Department when there is a reported incident of pesticide spray drift;
- Require that impacted parties receive information regarding their practical and legal remedies and the steps that can be taken to mitigate or otherwise address losses from spray drift; and
- Require that information for impacted parties be provided in writing by the Department, as well as included in a clear, easily accessible format on the Department website.

As the Department website is such an important portal for members of the public seeking information, we request that the site contain clear and concise information directing those potentially impacted by pesticide spray drift to the proper location within the site. This central location should house clear information relating to incident-reporting protocol, a description of the role of the Pesticide Bureau in recovering compensation for spray drift damages, and information on risks related to pesticide exposure. While we recognize the challenges in making this type of detailed technical information easily accessible and user-friendly, improving the flow of information and ease of navigation on the Department website likely would reduce the number of phone inquiries flowing to the Department and increase the quality of service to farmers and the general public.

7. The Petitioner hereby requests a meeting with the agency to discuss the above Petition, as provided for by the applicable administrative rules.

8. Please direct all communications regarding this petition to Iowa Farmers Union President Jana M. Linderman, using the contact information indicated below

Respectfully submitted:



DATE: December 15, 2014

Jana M. Linderman
President
Iowa Farmers Union
521 E Locust Street
Suite 220
Des Moines, IA 50309-1939
(319) 651-2250
jlinderman@iowafarmersunion.org

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