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Updated statement from Agriculture Commissioner Steve Troxler on the Ninth Circuit ruling on dicamba registration

RALEIGH – The North Carolina Department of Agriculture and Consumer Services is aware of the recent Ninth Circuit United States Court of Appeals decision regarding multiple labels of dicamba products issued by the United States Environmental Protection Agency approved for use on dicamba tolerant soybeans and cotton in North Carolina. Among the products are:

- XtendiMax with VaporGrip Technology (EPA Reg. No. 524-617),
- Engenia Herbicide (EPA Reg. No. 7969-345),
- FeXapan with VaporGrip Technology (EPA Reg. No. 352-913)

On Monday, June 8, 2020, EPA issued a final cancellation order of these three products, which cancelled their federal registrations.

"EPA has provided guidance to farmers and states regarding these three products," said Commissioner of Agriculture Steve Troxler. "We are disappointed and concerned with the ruling from the Ninth Circuit. It comes in the middle of a growing season and creates more uncertainty and burdens on North Carolina farmers already facing uncertain times due to market disruptions from COVID-19. However, we do appreciate EPA's guidance which allows licensed commercial applicators and growers to use existing stocks on hand until July 31, 2020 and support further efforts to mitigate negative effects on farmers."

In response to concerns voiced by Commissioner Troxler and other Departments of Agriculture in impacted states, the EPA has provided guidance to states and farmers through its cancellation order. The EPA's order outlines specific circumstances under which existing stocks of the three affected products in the hands of growers as of June 3, 2020 can be used for a limited period of time

Details of the Order

EPA's cancellation order provides the following:

- *Distribution or sale by the registrant*. Distribution or sale by the registrant of all existing stocks of the products listed below is prohibited effective as of the time of the order on June 3, except for distribution for the purposes of proper disposal.
- *Distribution or sale by persons other than the registrant*. Distribution or sale of existing stocks of the products listed below that are already in the possession of persons other than the registrant is permitted only for the purposes of proper disposal or to facilitate return to the registrant or a registered establishment under contract with the registrant, unless otherwise allowed below.
- *Distribution or sale by commercial applicators*. For the purpose of facilitating use no later than July 31, 2020, distribution or sale of existing stocks of products listed below that are in the possession of commercial applicators is permitted.
- Use of existing stocks of products listed below inconsistent in any respect with the previously approved labeling accompanying the product is prohibited. All use is prohibited after July 31, 2020.

The affected products are XtendiMax with VaporGrip Technology (EPA Reg. No. 524-617), Engenia Herbicide (EPA Reg. No. 7969-345) and FeXapan with VaporGrip Technology (EPA Reg. No. 352-913).
Here is the link to the EPA order: https://www.epa.gov/ingredients-used-pesticide-products/final-cancellation-order-three-dicamba-products. NCDA&CS will communicate any additional information to North Carolina farmers should further guidance come from EPA.

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