



New  
Jersey  
Department of  
Environmental  
Protection

## COMPLIANCE ADVISORY

# Enforcement **Alert**

*Making You Aware of Anticipated Enforcement Activities*

Compliance and Enforcement

Issued: March 8, 2018

#2018-03

## **USEPA Imposes New Requirements on Applicators of Dicamba to Dicamba-Tolerant Crops to Prevent Damage from Drift onto Susceptible Non-Target Crops and Ornamentals**

### **Who is affected by this initiative?**

Private pesticide applicators, handlers, and commercial pesticide applicators and operators currently certified and licensed to apply pesticides in Sub-Category 1A [Agricultural Pest Control - Plant] and their businesses planning to apply the newly reclassified Restricted Use Pesticide Products during the 2018 growing season:

- ENGENIA Herbicide (EPA Reg. No. 7969-345)
- DUPONT FEXAPAN Herbicide Plus VAPORGRIP Technology (EPA Reg. No. 352-913)
- XTENDIMAX With VAPORGRIP Technology (EPA Reg. No. 524-617).

### **Why is DEP Issuing this advisory?**

The EPA is requiring users of certain dicamba-containing pesticide products applied during the 2018 growing season to meet new, more stringent requirements to prevent damage from drift of dicamba onto susceptible non-target crops and ornamentals in New Jersey fields and residential landscapes. This occurred with the herbicide products listed above during the 2017 growing season in many midwestern and southeastern states. Most of the damage happened when these dicamba-containing products were used for post-emergent weed control when sprayed “over-the-top” of growing dicamba-tolerant soybeans and dicamba-tolerant cotton. To limit reports of damage to susceptible crops and ornamentals from applications of dicamba in all states, the EPA has accepted the petitions of the registrants of the dicamba-containing products listed above to reclassify each from General Use Pesticide to Restricted Use Pesticide and to revise the labels of each to require a) specialized training for the applicators applying them, b) additional recordkeeping requirements, and c) implementation of additional application conditions designed to minimize drift of dicamba to non-target crops and ornamentals. Compliance assistance and enforcement of these requirements are delegated to the DEP Bureau of Pesticide Compliance (BPC).

### **What is DEP doing?**

The BPC will enforce New Jersey Pesticide Control Regulations mandating Restricted Use Pesticide Dealers to require New Jersey pesticide applicators/end users purchasing the Restricted Use Pesticide Products identified above to present current applicator licenses and documentation that dicamba or auxin-specific training has been completed. The BPC will conduct on-farm inspections to determine whether the correct products are being used in strict accordance with label instructions and conditions for use on crops and non-croplands identified on the product label’s Directions for Use. Note that only the Restricted Use dicamba products are registered for use during the 2018 growing season as an “over-the-top” application for post-emergent weed

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control in fields planted with genetically engineered (GE) soybeans. It is a violation of N.J.A.C. 7:30-1 et seq. to use any other registered dicamba product whose label does not provide directions for “over-the-top” use on GE soybeans. Existing carry-over inventories of the General Use Pesticide products listed above purchased for use during the 2017 growing season are no longer registered with the BPC. Because of the actions of the EPA these products are considered misbranded, and they cannot be used during the 2018 growing season. Applications will be observed and records will be inspected and copied on a spot basis to document compliance or non-compliance with licensing and label requirements.

## What should I do?

The following is a general list of things to check to ensure compliance and is not a complete list of requirements with which you need to comply. Private pesticide applicators, handlers, and commercial pesticide applicators and operators certified in sub-category 1A [Agricultural Pest Control - Plant] must:

- 1) Obtain dicamba or auxin-specific training and a certificate of that applicator training;
- 2) Present a current New Jersey applicator license and the certificate of dicamba or auxin-specific training to your Restricted Use Pesticide Dealer when purchasing the RUP products identified above;
- 3) Record additional information in records of application as required by the product labels for each application;
- 4) Heed all application instructions and conditions contained on the product labels designed to avoid injury from drift of dicamba to susceptible, non-target, actively growing crops and ornamental plants.

All requirements became effective in October 2017, when the EPA accepted the product reclassification and label revisions submitted for acceptance by the product registrants. These requirements are applicable for the 2018 growing season.

Failure to comply with these label requirements can be a violation of several sub-sections of N.J.A.C. 7:30-1 et seq. and are subject to maximum penalties of \$25,000. Additionally, each application made without meeting the licensing, training, recordkeeping, and drift reduction conditions specified by the label constitutes an additional separate and distinct offense.

## Who should I contact with questions?

For more information, please contact:

- 1) Your dealer regarding product inventories remaining from the 2017 growing season;
- 2) Your dealer to identify trainers who can certify you to use the reclassified product;
- 3) Your dealer for specimen labels to prepare you for the 2018 growing season;
- 4) The Rutgers NJAES Cooperative Extension office in your county;
- 5) The DEP Bureau of Pesticide Compliance and Enforcement, 609-984-6568; ask for Rich Gruenhagen or Nancy Santiago.

## Where can I get more information?

The following web sites can be accessed for additional information and specimen labels from registrants of affected products:

BASF: [www.engeniaherbicide.com](http://www.engeniaherbicide.com);  
E.I. du Pont de Nemours & Company: [www.cropprotection.dupont.com](http://www.cropprotection.dupont.com);  
Monsanto Company: [www.xtendimaxapplicationrequirements.com](http://www.xtendimaxapplicationrequirements.com).

Please note this advisory is intended to be a summary explanation of a department initiative. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please contact the Enforcement number listed above.