

EPA green lights limited use of just-banned dicamba weedkillers until July 31

This notice announces the Agency's [EPA's] issuance of a final cancellation order for three pesticide products (Xtendimax with Vaporgrip Technology, Engenia, and FeXapan, containing the active ingredient dicamba pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

This order is issued in light of an order of the United States Court of Appeals for the Ninth Circuit vacating these three registrations. Pursuant to the Court's order EPA considers these products no longer to be registered as of the time of the order June 3, 2020.

Therefore, with limited exceptions, it is a violation of FIFRA for any person to sell or distribute these products. This cancellation order provides for the disposition of existing stocks of Xtendimax, Engenia, and FeXapan already in the possession of persons other than the registrant at the time of the order on June 3, 2020, and existing stocks in the possession of the registrant as of the time of the order on June 3, 2020.

This cancellation order authorizes limited distribution of existing stocks of Xtendimax, Engenia, and FeXapan by commercial applicators and authorizes all other sale or distribution of existing stocks only to facilitate return to the manufacturer or for proper disposal. This cancellation order prohibits any use of existing stocks that is inconsistent with the previously-approved product labeling and prohibits use beyond July 31, 2020.

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Even considering the immediate vacatur along with consideration of the six factors identified in the 1991 Existing Stocks Policy, EPA concludes that distribution and use in certain narrow circumstances is supported.

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It is clear from the numerous unsolicited phone calls and emails that EPA has received since the issuance of the Court's decision, there is a real concern and potential for devastation to cotton and soybean crops that could result in a crisis for the industry.

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EPA considers it appropriate to allow 1) existing stocks of these dicamba products in the hands of users to be used until July 31, 2020 and 2) for existing stocks of these dicamba products in the hands of commercial applicators to be used until July 31, 2020

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