



MDA Guidance on Three Cancelled Dicamba Products

The U.S. Environmental Protection Agency (EPA) recently issued a [cancellation order](#) for three of the four dicamba products that are labeled for use on dicamba-tolerant (DT) soybeans. The cancellation order provides limited and specific circumstances under which existing stocks of these products can be distributed, sold, and used for a limited period of time. This order follows the Ninth Circuit Court of Appeals' June 3, 2020 vacatur of three dicamba registrations.

The Minnesota Department of Agriculture (MDA) provides the following guidance to help pesticide dealers, commercial pesticide applicators, and farmers understand what EPA's order means for them.

1. Which dicamba products are affected by EPA's cancellation order?

- EPA's cancellation order affects XtendiMax with VaporGrip Technology (EPA Reg. No. 524-617), Engenia Herbicide (EPA Reg. No. 7969-345), and DuPont FeXapan with VaporGrip Technology (EPA Reg. No. 352-913).
- EPA's cancellation order does not affect Tavium Plus VaporGrip Technology (EPA Reg. No. 100-1623). Tavium can still be distributed, sold, and used in accordance with federal and Minnesota label requirements.
- All four dicamba products are "Restricted Use Pesticides" (RUPs) for retail sale to, and for use only by, certified applicators who have completed dicamba or auxin-specific training.

2. I'm a pesticide dealer/retailer that does not have commercial pesticide applicators. Can I distribute or sell affected dicamba products already in my possession?

- Dealers/retailers that do not have commercial pesticide applicators may distribute the affected dicamba products for the purposes of proper disposal or to facilitate return to the registrant or a registered establishment under contract with the registrant. There can be no further sales after June 3, 2020.
- A dealer or retailer in possession of product on June 3, 2020 can fulfill prepaid orders for any product purchased by a farmer prior to June 3, 2020.
- Farmers/producers are considered to be in possession if they have physical control of the product or have a prepaid order with a receipt date prior to June 3, 2020.

3. I'm a pesticide dealer/retailer that has commercial pesticide applicators or I am an independent commercial pesticide applicator. Can I sell, distribute, or apply affected products already in my possession?

- Dealers/retailers that have commercial pesticide applicators, and independent commercial pesticide applicators, may distribute or sell the affected products already in their possession for the purposes of:
 - proper disposal or to facilitate return to the registrant or a registered establishment under contract with the registrant.

- using these products no later than July 31, 2020. This includes fulfilling pre-paid orders from farmers/producers.
- Commercial pesticide applicators may apply the affected products already in their possession, only in accordance with the previously approved labeling accompanying the product, until July 31, 2020. This includes fulfilling services contracted by farmers/producers. The cutoff date for use in Minnesota may be earlier depending on the use.
- See also Question 5 below regarding timing restrictions for use.

4. I'm a farmer/producer who is a certified applicator. Can I use product already in my possession, or apply affected products I've already purchased but have not yet received?

- Farmers/producers who are certified applicators may apply product already in their possession or apply product they've already purchased but have not yet received.
- Any use must be in accordance with the previously approved labeling accompanying the product, and Minnesota label requirements, for each product.
- See also Question 5 below regarding timing restrictions for use.
- Farmers/producers are considered to be in possession if they have physical control of the product or have a prepaid order with a receipt date prior to June 3, 2020.

5. I'm a commercial pesticide applicator, or a farmer/producer who is a certified pesticide applicator. How long do I have to use the affected products? What about Tavium?

- For use on dicamba-tolerant (DT) soybeans: No later than June 20, 2020.

The affected dicamba products, and Tavium, cannot be applied to dicamba-tolerant (DT) soybeans in Minnesota if any of the following conditions has occurred. Whichever cutoff time occurs first will determine whether a person can apply a given product to DT soybeans until June 20, 2020.

- **Forty-five (45) days after planting.** The federal labels for XtendiMax, Engenia, FeXapan, and Tavium prohibit application more than 45 days after planting.
 - **Once the R1 growth stage begins (beginning bloom).** The federal labels for XtendiMax, Engenia, and FeXapan prohibit this. The R1 stage is when at least 1 flower appears on the plant on any node on the main stem.
 - **After the V4 growth stage.** The federal label for Tavium prohibits application after the V4 growth stage.
 - **After June 20, 2020.** The Minnesota Special Local Need (SLN) label, which must be in possession of the applicator at the time of application, prohibits this for all four dicamba products and is still in effect. The SLN labels are available on the MDA website at www.mda.state.mn.us/24c
- For use on other (non-DT soybean) use sites listed on the affected product labels:
 - Make sure to check and follow each product label for applicable timing restrictions.
 - All uses for the affected dicamba products (XtendiMax, Engenia, and FeXapan) are prohibited after July 31, 2020.
 - Tavium can still be used after July 31, 2020 but only in accordance with all federal and Minnesota label requirements.