



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2020-0492; FRL-11842-01-OCSP]

### Existing Stocks Order for Dicamba Products Previously Registered for Over-the-Top Use on Dicamba-Tolerant Cotton and Soybean

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** On February 14, 2024, EPA issued its Existing Stocks Order for Dicamba Products Previously Registered for Over-the-Top Use on Dicamba-Tolerant Cotton and Soybean. EPA hereby provides notice of the existing stocks order. EPA issued the existing stocks order following the February 6, 2024, order and judgement by the District of Arizona vacating the registrations for three products, XtendiMax® with VaporGrip® Technology (“XtendiMax”), Engenia® Herbicide (“Engenia”), and A21472 Plus VaporGrip® Technology (Tavium® Plus VaporGrip® Technology) (“Tavium”). As of February 6, 2024, these products are no longer registered, and it is unlawful under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to sell or distribute them except to the extent otherwise authorized by EPA.

**ADDRESSES:** The docket for this action, identified under docket identification (ID) number EPA-HQ-OPP-2020-0492, is available online at <https://www.regulations.gov>. Additional instructions on visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Charles Smith, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (202) 566-1030; email address: [RDFRNotices@epa.gov](mailto:RDFRNotices@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

*Does this action apply to me?*

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

## **II. What action did the Agency take?**

On February 6, 2024, the District of Arizona issued an order and judgment vacating the registrations of three dicamba products (XtendiMax® with VaporGrip® Technology (EPA Reg. No. 264-1210) (“XtendiMax”), Engenia® Herbicide (EPA Reg. No. 7969-472) (“Engenia”), and A21472 Plus VaporGrip® Technology (Tavium® Plus VaporGrip® Technology) (EPA Reg. No. 100-1623) (“Tavium”)) previously registered for over-the-top use on dicamba-tolerant cotton and soybean. These products are no longer registered, and it is unlawful under FIFRA to sell or distribute them except to the extent otherwise authorized by EPA. To allow for the legal and orderly disposition of those products, EPA issued an existing stocks order for the three products on February 14, 2024, and revised the order on March 12, 2024.

## **III. Provisions for Disposition of Existing Stocks**

Pursuant to FIFRA Section 6(a)(1), on February 14, 2024, EPA issued an existing stocks order for XtendiMax® with VaporGrip® Technology (EPA Reg. No. 264-1210), Engenia® Herbicide (EPA Reg. No. 7969-472), and A21472 Plus VaporGrip® Technology (Tavium® Plus VaporGrip® Technology) (EPA Reg. No. 100-1623). EPA revised the order on March 12, 2024. The order will remain in effect unless or until subsequent action is taken. The issuance of the order did not follow a public hearing. EPA’s issuance of the order is a final agency action, judicially reviewable under FIFRA § 16(a) (7 U.S.C. §136n). Any sale, distribution, or use of existing stocks of these products inconsistent with the order is prohibited.

For purposes of the order, “existing stocks” is defined as those stocks of previously

registered pesticide products that are currently in the United States and were packaged, labeled, and released for shipment prior to February 6, 2024 (the effective date of the District of Arizona's vacatur of the dicamba registrations). Pursuant to FIFRA section 6(a)(1), the order issued on February 14, 2024 (and revised on March 12, 2024) includes the following existing stocks provisions:

1. *Sale or Distribution by the Registrants.* As of February 6, 2024, sale or distribution by the registrants of these products is prohibited, except for the purposes of proper disposal or to facilitate lawful export.

2. *Sale or Distribution by Persons other than the Registrants.* Persons other than the registrants, including but not limited to co-ops and commercial distributors, who are already in possession of these products as of February 6, 2024, may sell or distribute these products until the end date for sale and distribution of existing stocks identified in Tables 1 or 2 (depending on your state); except that such persons may distribute these products after the date identified in Tables 1 or 2 solely for purposes of proper disposal, lawful export, or to facilitate return to the manufacturer.

3. *Distribution or Sale by Commercial Applicators.* Notwithstanding paragraph 2, for the purpose of facilitating use no later than the relevant end date for use of existing stocks identified in Tables 1 or 2, distribution or sale of existing stocks of these dicamba products that are in the possession of commercial applicators is permitted until the relevant end date for use in Tables 1 or 2.

4. *Use of Existing Stocks.* As of the date of the order, use of XtendiMax, Engenia, and Tavium is permitted until the relevant date identified in Tables 1 or 2, provided that such use of existing stocks is consistent in all respects with the previously approved labeling accompanying the product.

**Table 1: End Dates for Sale, Distribution, and Use of Existing Stocks**

State(s)	End Date for Sale & Distribution of Existing Stocks for Use (Para. 2)	End Date for Use of Existing Stocks (Paras. 3 & 4)*
IA, IL, IN	Sale & Distribution of XtendiMax, Engenia, or Tavium: May 13, 2024	Use of XtendiMax, Engenia, or Tavium: June 12, 2024, or V4 growth stage (soybean) or 1st square growth stage (cotton) in 2024, whichever comes first
MN	Sale & Distribution of XtendiMax, Engenia, or Tavium to Purchasers South of I-94: May 13, 2024  Sale & Distribution of XtendiMax, Engenia, or Tavium to Purchasers North of I-94: May 31, 2024	Use of XtendiMax, Engenia, or Tavium south of I-94: June 12, 2024  Use of XtendiMax, Engenia, or Tavium north of I-94: June 30, 2024
SD	Sale & Distribution of XtendiMax, Engenia, or Tavium: May 21, 2024	Use of XtendiMax, Engenia, or Tavium: June 20, 2024
AL, AZ, CO, DE, FL (excluding Palm Beach County), GA, KS, KY, LA, MD, MI, MS, MO, NE, NJ, NM, NY, NC, ND, OH, OK, PA, SC, TN (excluding Wilson County), TX, VA, WV, WI	Sale & Distribution of XtendiMax, Engenia, or Tavium for Use on Dicamba-Tolerant Soybean: May 31, 2024  Sale & Distribution of XtendiMax, Engenia, or Tavium for Use on Dicamba-Tolerant Cotton: June 30, 2024	Use of XtendiMax, Engenia, or Tavium on Dicamba-Tolerant Soybean: June 30, 2024  Use of XtendiMax, Engenia, or Tavium on Dicamba-Tolerant Cotton: July 30, 2024

\* The end dates for the use of existing stocks outlined in this Table are consistent with the application cut-off dates on the previously approved labeling of the formerly registered dicamba products at the time of vacatur. EPA believes these cut-off dates are appropriate because they will minimize confusion amongst the grower community. Furthermore, establishing cut-off dates in the existing stocks order consistent with those on the previously approved labeling is expected to encourage lawful use.

<b>Table 2:</b>  <b>End Dates for Sale, Distribution, and</b>	<b>End Date for Sale &amp; Distribution of Existing Stocks for Use (Para. 2)</b>	<b>End Date for Use of Existing Stocks (Paras. 3 &amp; 4)</b>

<b>Use of Existing Stocks in Arkansas State</b>		
AR	Sale & Distribution of XtendiMax, Engenia, or Tavium: May 31, 2024	Use of XtendiMax, Engenia, or Tavium: June 30, 2024

\* The end date for the use of existing stocks outlined in this Table is consistent with the application cut-off date under Ark. Admin. Code 209.02.4-XIII. EPA did not intend its February 14, 2024, order to allow use of these dicamba products beyond any state-imposed application cutoff dates. Nevertheless, EPA added this cut-off date to the order to provide clarity to users in Arkansas.

Additional information regarding the existing stocks order may be found in

<https://www.regulations.gov/docket/EPA-HQ-OPP-2020-0492>.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: March 26, 2024.

**Daniel Rosenblatt,**

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