



The Honorable Andrew Wheeler
Acting Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Sent electronically August 29, 2018

RE: Dicamba Registration Decision

Dear Acting Administrator Wheeler:

The Association of American Pesticide Control Officials (AAPCO) was formed in 1947, the same year that Congress enacted the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). AAPCO is a professional association comprised of the officers charged by law with the execution of the state, territorial, provincial, and federal pesticide laws in the United States, including all its territories, and in Canada. The Environmental Protection Agency (EPA) and States are co-regulators in the implementation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Our mission is to represent state pesticide control officials in the development, implementation, and communication of sound public policies and programs related to the sale, application, transport, and disposal of pesticides.

A primary goal of AAPCO is to encourage uniformity among the states and territories (referred to hereafter as states) in their pesticide regulatory programs. It is recognized that states cannot have identical programs due to wide differences in population, geographic area, cropping systems, climate, political attitudes, and other factors which influence use of pesticides.

Given the impending decision on the conditional registration of Xtendimax with VaporGrip Technology (EPA Reg. No. 524-617), Engenia (EPA Reg. No. 7969-345), and FeXapan with VaporGrip Technology (EPA Reg. No. 352-913) and also with other potential registration decisions involving the registration of dicamba for the over-the-top (OTT) use on genetically modified crops for the 2019 growing season and beyond, AAPCO respectfully offers the following observations and comments.

States recognize the substantial issues and associated costs of herbicide-resistant weed species in row crop agriculture. The approval of genetically modified soybean seed by USDA in 2016 and the delayed registration of

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appropriate approved herbicides by EPA created an unnecessary regulatory burden for state pesticide programs. During 2016, several states had increased caseloads and enforcement issues related to drift of legacy formulations of dicamba which were not approved for OTT applications to genetically modified soybeans and cotton.

With the approval of the appropriate herbicide products in 2017, the full technology package was in use and states recorded unprecedented numbers of drift cases associated with the use of the products in multiple states. Some states chose to add additional risk mitigation measures through the use of Special Local Need labeling. Still, the impact to state pesticide programs was in many cases an unmanageable workload. Impacts included financial costs associated with overtime, laboratory analysis, and travel costs related to large numbers of cases. It is also important to note that pesticide program work in other areas was not accomplished due to the increased workload surrounding dicamba investigations.

AAPCO worked with EPA during the fall of 2017 until the approval of revised OTT dicamba label language for the 2018 growing season. AAPCO worked diligently to provide EPA with the best available data from the states' experiences with product-use issues from the 2017 growing season. EPA adopted many of the risk mitigation measures that states had adopted through Special Local Need labeling, including a wind-speed reduction for applications from 15 mph to 10 mph. EPA changed the use classification to restricted use with the full support of AAPCO. Mandatory training was required for any applicator applying the products and along with very stringent recordkeeping requirements for applicators. This type of mandatory training was an unprecedented effort to maintain the registration of dicamba and was agreed to by states in an effort to preserve these important tools for growers. The mandatory training requirement was a massive undertaking for the states and involved great expense and hundreds of staff hours. States were required to provide extensive additional training to their inspectional staffs to prepare to them investigate cases based on new label amendments.

As we near the end of the 2018 growing season, many states continue to report significant complaints from the movement of the dicamba from the target site. AAPCO developed and conducted weekly surveys of states requesting the number of OTT dicamba-specific complaints and provided this information to the agency. AAPCO and EPA also held weekly calls to make sure the agency knew, in real time, all of the information that states knew related to the situation on the ground. The unintended consequences of the off-target movement of dicamba affect every aspect of agriculture. AAPCO has reported to the agency damage to a wide array of agricultural, horticultural, and homeowner sites.

The direct impact upon pesticide programs/state lead agencies has been significant. The numbers of FTEs committed to dicamba-related issues is

unsustainable under the current funding structure for the state pesticide programs.

AAPCO is supportive of the following recommendations as EPA moves toward a registration decision:

1. Registrations should be conditional on a year-to-year basis. This allows for changes to the label as additional information becomes available.
2. An early-season cutoff date should be mandated on the Section 3 label, but only if states are allowed to modify the cutoff date to adjust for state-specific conditions such as growing season or weather conditions.
3. State Local Need labels must continue to be a viable option for states to accommodate conditions within states in the regulation of dicamba.
4. EPA should recognize states' ability to enforce label requirements, as opposed to advisory language, and only include risk mitigation measures that are enforceable. If risk mitigation relies on label language involving prohibitions related to plant-growth stage or weather conditions such as inversion or temperature, then the agency should fully understand that states will have great difficulty enforcing these type prohibitions.
5. EPA should recognize the great financial burden these registrations have caused state lead agencies. States have continued to receive reductions in program funding for decades. EPA funding to state pesticide programs should be addressed to accommodate the dicamba issue along with other recent unfunded mandates. Lack of funding and the corresponding loss of staff has eroded states' ability to respond to large-scale issues or incidents. Any immediate financial assistance should be offered proportionally to the states impacted by increased caseloads.
6. EPA should immediately contact states and offer to renegotiate pesticide program work plan outcomes for FY 2018 to accommodate the additional workloads associated with the enforcement of these dicamba registrations.

AAPCO will continue to work closely with EPA in the implementation the pesticide program throughout the United States. We appreciate our ongoing relationship as co-regulators in the implementation of FIFRA.

Sincerely,



Tony L. Cofer, President
AAPCO

cc: Chief of Operations, Henry Darwin
Deputy Assistant Administrator, OCSPP, Nancy Beck
Acting Principal Deputy Assistant Administrator, OCSPP, Charlotte Bertrand
Director, OPP, Rick Keigwin
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