



National Association of State Departments of Agriculture

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September 5, 2025

Charles Smith, Director
Registration Division
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460-0001

Submitted via Regulations.gov

RE: Proposed New Use on Dicamba-tolerant cotton and Dicamba-tolerant soybean (EPA-HQ-OPP-2024-0154)

Dear Mr. Smith:

The National Association of State Departments of Agriculture (NASDA) submits the following comments on the Proposed New Use on Dicamba-tolerant cotton and Dicamba-tolerant soybean (EPA-HQ-OPP-2024-0154).

NASDA represents the commissioners, secretaries, and directors of the state departments of agriculture in all 50 states and 4 U.S. territories. State departments of agriculture are responsible for a wide range of programs, including food safety, combating the spread of disease, and fostering the economic vitality of our rural communities. Conservation and environmental protection are also among our chief responsibilities. In 43 states, the state department of agriculture is a co-regulator with EPA and is responsible for administering, implementing, and enforcing the production, labeling, distribution, sale, use, and disposal of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Crop protection tools are a vital component of agricultural operations and public health programs nationwide. NASDA supports the science-based and comprehensive regulatory framework FIFRA provides to pesticide-related environmental and public health protection.

Background

NASDA supports the proposed registrations of the Tavium Plus VaporGrip Technology, KHNP0090 Herbicide, and Engenia Herbicide over-the-top products for use on dicamba-tolerant cotton and soybeans. We would like to thank the EPA for taking timely, meaningful action to provide cotton and soybean farmers in 34 states with additional tools to control weeds and minimize crop loss. We are particularly grateful for the Agency's action here in light of past disruptions to the availability of these tools. In 2024, after the registrations of over-the-top dicamba products were vacated by the U.S. District Court of Arizona, NASDA sent a letter¹ to the EPA calling for swift action to ensure channels of trade were not disrupted. We want to thank Administrator Zeldin and the Office of Pesticide Programs for taking decisive actions while maintaining a commitment to the Agency's robust science- and risk-based methodology.

Should these registrations move forward, NASDA strongly encourages the EPA to continue that same decisive, principled approach when coordinating with the state co-regulators tasked with enforcing these labels. In previous public comments pertaining to the draft Herbicide Strategy², draft Insecticide Strategy³, draft Vulnerable Species Pilot⁴, and atrazine Interim Registration Review⁵, NASDA has raised concerns about the clarity and enforceability of various mitigation measures, particularly those aimed at minimizing impacts on endangered species. We share similar concerns about certain mitigations contained in these proposed registrations. Although we do not believe these concerns should delay the registration process, we do believe the Agency should prioritize guidance to states if and when these products re-enter the market and are subject to state co-regulation.

Need for Support for States

NASDA recognizes that in proposing registrations for these three products, the EPA has included numerous ecological mitigation measures – including some novel measures. NASDA strongly encourages the EPA to collaborate with state lead agencies, grower trade associations, and registrants in a timely manner so that applicators and regulators alike have the clarity and support needed to ensure meaningful implementation and compliance

¹ <https://www.nasda.org/letter-imploing-epa-to-allow-farmers-to-maintain-access-to-the-pesticide-dicamba/>

² <https://www.nasda.org/comments-on-epa-herbicide-strategy/>

³ <http://nasda.org/comments-on-epa-draft-insecticide-strategy/>

⁴ <https://www.nasda.org/comments-on-epas-vulnerable-listed-species-pilot-project/>

⁵ <https://www.nasda.org/comments-on-the-updated-mitigation-proposal-for-the-atrazine-interim-registration-review-decision/>

with these measures. In particular, NASDA encourages extensive outreach and collaboration with state lead agencies to ensure these measures can be properly enforced.

Perhaps the best demonstration of the need for collaboration on enforceability is the proposed mitigation measures that incorporate sliding scales or subjective criteria. For instance, in an effort to manage volatility, the EPA has proposed applicators obtain NOAA or National Weather Service forecasts for the day of and day after application, with drift reduction agent and volatility reduction agent tank mix requirements corresponding to a sliding temperature schedule. However, enforcing these recordkeeping requirements will invariably pose challenges for state lead agencies. The EPA must continue to work with state lead agencies to resolve specific concerns around the timing of obtaining forecasts, formatting of these records, accessibility in areas with limited internet access, the accuracy of NOAA and National Weather Service forecasts in certain regions, and more. These concerns can be addressed through the Agency's regular consultation with state lead agencies in forums such as the Association of American Pesticide Control Officials and the State FIFRA Issues Research & Evaluation Group.

State lead agencies will need robust support from the EPA in order to adequately enforce numerous proposed mitigations – from weather-related mitigations to downwind buffers and beyond. However, it is especially paramount that the EPA provides states with the clarity and resources necessary to resolve any violations that do arise in a timely manner.

In addition to concerns with the novel mitigation measures proposed in these registrations, NASDA reiterates its concerns raised in aforementioned public comments regarding the enforceability of endangered species mitigations as found on Bulletins Live! Two. NASDA appreciates the progress made by the Agency in providing flexibility to applicators in the final Herbicide Strategy and Insecticide Strategy. However, as applicator compliance options expand, it is important that the EPA affirm that states have discretion to determine compliance with the label under FIFRA. Additionally, NASDA encourages the Agency to consider providing clear guidance to states affirming state lead agencies may exercise discretion should these mitigation measures – either those relating to endangered species or to the novel proposals in these proposed registrations – cause enforceability challenges.

Furthermore, NASDA encourages the EPA to participate in all future forums with state lead agencies, grower trade associations, and registrants to provide enforcement guidance resources for the states. NASDA is committed to helping convene these discussions and we look forward to building on the robust, open dialogue between state lead agencies and the EPA.

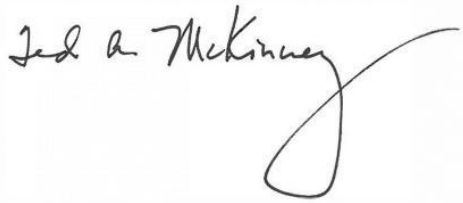
Conclusion

NASDA is encouraged by the decisive, timely actions by the EPA to provide growers with access to three critical tools for weed management. As co-regulators, NASDA's members share in the EPA's commitment to enforceable, science- and risk-based pesticide regulations.

We urge the EPA to continue its commitment to collaborating with state lead agencies to develop workable paths forward for these proposed mitigation measures. While these mitigations will invariably pose challenges for co-regulators, NASDA believes those challenges can be addressed through existing forums of dialogue in order to ensure positive outcomes for farmers, communities, threatened and endangered species, and the environment alike. Should you have any questions, please contact Patrick Wade, Director of Public Policy, at patrick.wade@nasda.org.

Thank you for considering our comments on this critical issue.

Sincerely,

A handwritten signature in black ink, reading "Ted McKinney". The signature is fluid and cursive, with a large, sweeping loop at the end of the last name.

Ted McKinney
Chief Executive Officer
NASDA