



New
Jersey
Department of
Environmental
Protection

COMPLIANCE ADVISORY

Enforcement **Alert**

Making You Aware of Anticipated Enforcement Activities

Compliance and Enforcement

Issued: March 8, 2018

#2018-04

USEPA Reclassifies and Revises Labels of Dicamba Products Intended for Application to Dicamba-Tolerant Crops

Who is affected by this initiative?

Pesticide dealers and businesses, including licensed Restricted Use Pesticide Dealers and Dealer Businesses, who sold and/or distributed the following three herbicides during the 2017 growing season and who plan to sell and distribute them for end use in New Jersey during the 2018 growing season:

- ENGENIA Herbicide (EPA Reg. No. 7969-345)
- DUPONT FEXAPAN Herbicide Plus VAPORGRIP Technology (EPA Reg. No. 352-913)
- XTENDIMAX With VAPORGRIP Technology (EPA Reg. No. 524-617).

Why is DEP Issuing this advisory?

The labels for the dicamba-containing products listed above for use during the 2017 growing season have been reclassified from General Use Pesticide to Federal and State Restricted Use for the 2018 growing season. The label requirements for applicator certification, record keeping and conditions for application have been revised for the 2018 growing season. The reclassification and revised labels are intended to reduce the potential for unacceptable injury to susceptible, non-target crops and plants growing in New Jersey fields and residential landscapes, respectively, when used for post-emergent weed control in fields planted with dicamba-tolerant soybeans. In 2017, these products were classified as General Use Pesticides and their labels did not require end users to: a) obtain specialized training to safely apply them, b) maintain additional records of application, and c) implement and/or document additional application conditions designed to minimize drift of dicamba to susceptible, non-target crops and ornamentals.

What is DEP doing?

Inspections by the DEP Bureau of Pesticide Compliance (BPC) will include evaluation of pesticide product labels attached to refillable and nonrefillable containers and transport cases, and will include documentation that New Jersey end users presented proper licensing and certification information when purchasing the pesticide products listed above. The BPC inspectors may also request you to identify and provide addresses of the purchasers of these products for the 2017 and 2018 growing seasons.

What should I do?

The following is a general list of things to check to ensure compliance and is not a complete list of requirements with which you need to comply. Individuals and businesses, including currently licensed Restricted Use Pesticide (RUP) Dealers and Dealer Businesses, should:

COMPLIANCE ADVISORY

- 1) Determine whether the labels of unsold pesticide inventory intended for sale from the 2017 growing season possess the outdated General Use Pesticide product label for the products listed above; and if so, contact the vendor or registrant for instruction about stickering and relabeling or exchange for properly labelled Restricted Use Pesticide;
- 2) Become licensed as an RUP Dealer and Dealer Business, if you are not one now, before exchanging General Use Products for Restricted Use Products with the same EPA Registration Numbers;
- 3) Contact customers purchasing from you the General Use Pesticide products listed above for the 2017 growing season to determine whether they are in possession of any carry-over inventory that can be returned to registrants through your business for stickering and relabeling or exchange for properly labelled Restricted Use Pesticides; and
- 4) Require New Jersey end users purchasing the Restricted Use Pesticide to provide documentation of current New Jersey licensing as a pesticide applicator and of a Federally-required certificate of dicamba or auxin-specific training as required by the label.

Inventories of the above-listed products remaining in the channels of trade that were originally labeled as General Use Pesticides during the 2017 growing season are no longer registered with the DEP Bureau of Licensing and Registration for sale and use in 2018. Carryover inventories of the General Use Pesticide product intended for use during the 2017 growing season “must be stickered and relabeled” with assistance from the registrants in an USEPA Establishment site before they may be sold and distributed in New Jersey.

All requirements became effective in October 2017, when USEPA accepted the product reclassification and label revisions submitted for acceptance by the product registrants. These requirements are applicable for the 2018 growing season.

Failure to comply with these label requirements can be a violation of several sub-sections of N.J.A.C. 7:30-1 et seq. and are subject to maximum penalties of \$25,000. Additionally, each sale and distribution of unregistered and misbranded pesticides to improperly certified and unlicensed applicators constitute an additional separate and distinct offense.

Who should I contact with questions?

For more information, please contact the DEP Bureau of Pesticide Compliance and Enforcement, 609-984-6568; ask for Rich Gruenhagen or Nancy Santiago.

Where can I get more information?

The following web sites can be accessed for additional information and specimen labels from registrants of affected products:

BASF: www.engeniaherbicide.com;
E.I. du Pont de Nemours & Company: www.cropprotection.dupont.com;
Monsanto Company: www.xtendimaxapplicationrequirements.com.

Please note this advisory is intended to be a summary explanation of a department initiative. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please contact the Enforcement number listed above.