

ANDREW S. COGHLAN (CA: 313332)
ALEX J. HARDEE (NC: 56321)

Trial Attorneys

Environmental Defense Section

andrew.coghlan@usdoj.gov

alex.hardee@usdoj.gov

J. BRETT GROSKO (MD: 010610001)

Senior Trial Attorney

Wildlife and Marine Resources Section

brett.grosko@usdoj.gov

U.S. Department of Justice

Environment and Natural Resources Division

Benjamin Franklin Station

P.O. Box 7369

Washington, D.C. 20044-7369

Phone: (202) 514-9275

Attorneys for Federal Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
TUCSON DIVISION**

Center for Biological Diversity, et al.,

Plaintiffs,

v.

**United States Environmental Protection
Agency, et al.,**

Federal Defendants, and

**Bayer CropScience LP, BASF Corp.,
and Syngenta Crop Protection, LLC,**

Defendant-Intervenors.

) No. 4:20-cv-00555-DCB

)
)
) **EPA'S NOTICE OF
REGULATORY ACTION**

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4:20-cv-00555-DCB

1 Federal Defendants U.S. Environmental Protection Agency, *et al.* (“EPA”) submit
2 this Notice to inform the Court and the parties of regulatory action regarding the
3 dicamba-based product registrations at issue in this litigation. On January 31, 2023, EPA
4 notified the Court that it had received proposals from Bayer, Syngenta, and BASF (the
5 “Registrants”) to amend the registrations of their dicamba-based pesticide products. Dkt.
6 120 at 1. EPA intended to act on the proposals by mid-February. *Id.*

7 On February 16, 2023, EPA approved labeling amendments that further restrict
8 over-the-top dicamba usage in Iowa, Illinois, Indiana, and South Dakota. The amended
9 registrations and associated labeling are available at
10 <https://www.regulations.gov/document/EPA-HQ-OPP-2020-0492-0033> (XtendiMax),
11 <https://www.regulations.gov/document/EPA-HQ-OPP-2020-0492-0034> (Engenia), and
12 <https://www.regulations.gov/document/EPA-HQ-OPP-2020-0492-0032> (Tavium).

13 The approved amendments prohibit the use of over-the-top dicamba application on
14 dicamba-tolerant crops after June 12 in Iowa, Illinois, and Indiana and after June 20 in
15 South Dakota. *See* [https://www.epa.gov/pesticides/epa-approves-requested-labeling-](https://www.epa.gov/pesticides/epa-approves-requested-labeling-amendments-further-restrict-use-over-top-dicamba-iowa)
16 [amendments-further-restrict-use-over-top-dicamba-iowa](https://www.epa.gov/pesticides/epa-approves-requested-labeling-amendments-further-restrict-use-over-top-dicamba-iowa). These amendments restrict
17 over-the-top dicamba application to earlier in the growing season, when temperatures are
18 likely to be lower. *Id.* The restrictions are intended to reduce the potential for dicamba
19 to volatilize and drift off-site. *Id.*

20 These amendments follow amendments EPA approved for Minnesota and Iowa in
21 March 2022. Dkt. 73 at 1. These amendments do not impact the use of over-the-top
22 dicamba in Minnesota. For Iowa, the new amendment supersedes the previous
23 amendment.

24 EPA continues to review dicamba-related incidents and consider the regulatory
25 tools available to further address incidents and reduce risks from dicamba use.

DATED this 17th day of February, 2023.

Of Counsel

TODD KIM

Assistant Attorney General

MICHELE KNORR

CAMILLE HEYBOER

Office of General Counsel

U.S. EPA

/s/ Alex J. Hardee

ANDREW S. COGHLAN

ALEX J. HARDEE

Trial Attorneys

Environmental Defense Section

Tel: (202) 532-3252 (Coghlan)

Tel: (202) 305-5105 (Hardee)

andrew.coghlan@usdoj.gov

alex.hardee@usdoj.gov

J. BRETT GROSKO

Senior Trial Attorney

Wildlife and Marine Resources Section

Tel: (202) 305-0342

brett.grosko@usdoj.gov

U.S. Department of Justice

Environment and Natural Resources Division

Benjamin Franklin Station

P.O. Box 7369

Washington, D.C. 20044-7369

Attorneys for Federal Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 17, 2023, I filed the foregoing document electronically through the CM/ECF system, which caused all parties or counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Alex J. Hardee

ALEX J. HARDEE

Attorney for Federal Defendants