

**EPN Comments on EPA's Proposed Decision to Approve Registration for
New Uses of Dicamba on Dicamba-Resistant Soybeans and Cotton**

Docket No. EPA-HQ-OPP-2024-0154

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The Environmental Protection Network (EPN) harnesses the expertise of more than 700 former Environmental Protection Agency (EPA) career staff and confirmation-level appointees from Democratic and Republican administrations to provide the unique perspective of former regulators and scientists with decades of historical knowledge and subject matter expertise.

On July 23, 2025, EPA posted a notice providing an opportunity for public comment on its proposed registration for three end-use dicamba products for broadleaf weed control in dicamba-tolerant cotton and soybeans. The proposed registrations would allow postemergence dicamba applications to soybeans and cotton, commonly referred to as “over-the-top” (OTT) use. EPN commented on proposed dicamba registrations on two earlier occasions.¹ EPN expressed concerns with dicamba registrations for OTT use because significant uncertainties in the assessments of both the risks and the benefits did not allow for a valid balancing of risks and benefits that supported registration of OTT dicamba products under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Those concerns persist.

We offer the following comments on the current EPA proposal to register three end-use dicamba products for OTT applications to dicamba-tolerant soybean and dicamba-tolerant cotton.

Summary

EPA cannot make a valid risk-benefit determination under FIFRA that would allow registrations of the currently proposed OTT dicamba registrations on soybeans and cotton because there are significant known risks that cannot be reliably quantified or estimated, and there is a high level of uncertainty regarding the benefits of the proposed registrations. Specifically:

1. EPA has not performed an adequate analysis of the risks of the proposed OTT use of dicamba. For several years, off-target movement of dicamba following OTT application to dicamba-tolerant soybeans and cotton has resulted in widespread damage to nontarget crops and other nontarget plants. Damage has occurred despite substantial attempts to reduce off-target movement of residues through labeled mitigation measures and the requirement that OTT dicamba products be applied only by certified applicators. EPA has not done more than a cursory, qualitative analysis of the years of economic damage caused to millions of acres of vulnerable field and specialty crops to understand the considerable costs to growers.² While the damage has been so frequent and widespread that it may not have been possible to quantify reliably the risks of off-target plant damage and the considerable financial losses suffered by many large and small farms,³ EPA needs to provide a more detailed analysis of these risks and

¹ See <https://www.environmentalprotectionnetwork.org/letter-on-dicamba/> and <https://www.environmentalprotectionnetwork.org/epn-comments-on-dicamba-application/>.

² EPA-HQ-OPP-2024-0154-1239, July 22, 2025.

³ Illinois Public Media, March 6, 2019; Genuine Faux Farm, Substack, Feb. 26, 2024; Center for Food Safety, April 25, 2024; PANNA, Dec. 3, 2020; Grist, Jan. 28, 2019; AP News, Jan. 21, 2019.

their economic fallout. In addition, EPA should address the costs being borne by growers who do not use dicamba, but who nonetheless purchase genetically-engineered (GE) cotton and soybeans as a way to protect their crops from damage resulting from other growers' inability to prevent off-site damage from their OTT use. A much more robust risk assessment of dicamba use is a critical and essential component of a risk-benefit decision for the proposed registrations.

2. EPA has not performed an adequate analysis of the benefits of the proposed OTT use of dicamba. The purported benefit of OTT dicamba is as a resistance management tool against economically important broadleaf weeds in cotton and soybeans, thereby improving yield in treated crops. The agency has addressed this alleged benefit only qualitatively, but, given the extraordinary damage caused by OTT use of dicamba, EPA should conduct a quantitative assessment of the expected benefits. The analysis should characterize the ability of other herbicides, alone or in combination, to control important weed species in cotton and soybeans. (EPA recently proposed to register a new herbicide that controls Palamar amaranth, a particularly problematic weed species.) Such an assessment also should carefully examine the extent of resistance of weeds affecting cotton and soybeans to herbicides other than dicamba and should quantify how much the use of dicamba could improve growers' yield and/or quality, but also how much use of the GE crops and OTT dicamba might increase their costs. For example, EPA should consider how cotton and soybean production was affected, if at all, during 2024, when growers' use of dicamba was limited to existing stocks, or in 2025 when they could not legally apply dicamba for OTT use. In addition, there are confirmed reports of resistance to dicamba itself, which compromises the value of dicamba in resistance management. In fact, EPA's decision memo acknowledges that the benefits of the OTT dicamba applications are uncertain and "vary at the farm level or even at the field level and will depend on the specific resistance characteristics of the weed population at that particular site." EPA should examine the information indicating that cotton and soybean weed species are becoming resistant to dicamba, and how such resistance would reduce the benefits of OTT use of dicamba over the period of the proposed registration.
3. There is ample evidence suggesting that such quantitative analyses of the risks and benefits of the proposed OTT use of dicamba would demonstrate that the risks outweigh the benefits. In any case, without such analyses, EPA's proposal would be inadequate and would not support the statutorily required finding that OTT use does not cause unreasonable adverse effects on the environment.
4. EPA is relying on a combination of training and product labeling to communicate to users a very complex suite of restrictions required to use dicamba on tolerant soybeans and cotton. The proposed registrations would require users to read, understand, and follow lengthy product labeling, as well as follow additional restrictions referenced on external websites and in other sources of information. It is unrealistic for EPA to be assured that growers will access all of this information, much less be able to understand it, and will apply dicamba in a manner that will significantly reduce off-target movement of residues that damage nontarget plants. Moreover, this approach – requiring complex restrictions on labeling – has been largely unsuccessful for earlier dicamba registrations. While the registrations, if issued, would require annual training on the new restrictions, it is not apparent that past attempts at specialized training have had widespread success. Despite the dicamba-specific training, incidents persist. What additional

steps, other than relying on what appears to be ineffective training, will the agency take to ensure that the training meets the agency's intent to reduce incidents and increase understanding of the label requirement? If the desired goals from the training cannot be achieved, EPA has not addressed the finding required by FIFRA sec. 3(c)(5)(B) that the labeling of new products comply with the requirements of the Act, in this case the misbranding provisions of FIFRA.

History of Dicamba Registrations

Dicamba was registered in the United States in 1967. It can kill or damage a wide variety of broadleaf plants, not only weeds but also desirable nontarget plants, including sensitive broadleaf crops such as non-GE soybeans and cotton, a wide range of fruits and vegetables, and ornamentals.

Dicamba is a highly volatile herbicide. After application, dicamba vapor can be transported considerable distances by wind. Volatile dicamba residues that contact a sensitive plant may cause visible symptoms or damage that may slow the growth of or kill the plant. Millions of acres of nontarget plants, including nontarget crops, have been damaged since the registration of OTT dicamba products. Early dicamba use was limited to pre-plant and pre-harvest applications, thereby reducing the potential damage to sensitive crops from dicamba drift or vapor.

Since 2016, following the U.S. Department of Agriculture's (USDA's) regulatory approval of GE soybeans and cotton that are resistant to dicamba, EPA granted registrations for dicamba products that could be sprayed over the canopies of dicamba-tolerant soybeans and cotton. The stated benefit of OTT dicamba applications to tolerant soybeans and cotton was to provide growers with a resistance management tool, particularly as an alternative to glyphosate, because of significant weed resistance to that compound. Dicamba's benefit in resistance management may be compromised in the future. For example, in 2021 and 2022, dicamba-resistant waterhemp and Palmer amaranth, respectively, were reported in Tennessee.⁴ Further, in 2021, University of Illinois weed scientists confirmed waterhemp resistance to dicamba in fields that had not been treated with the herbicide, suggesting that dicamba resistance may develop when weeds develop resistance to other herbicides related to dicamba.⁵ The agency and registrants need to address this increase in resistance and propose mitigation measures to reduce the acceleration of resistance.

In initially approving the OTT use of dicamba on widely-grown field crops, EPA was mindful of dicamba's volatility and the potential for the chemical to move off-site after application. To address this issue, pesticide registrants added ingredients to their formulations that were believed to significantly reduce the potential for volatilization. EPA also limited the initial registrations to two years so that the agency could revise or terminate the OTT use of dicamba if off-site movement proved to be a problem.

Unfortunately, despite attempts to reduce volatility, off-site movement of dicamba and damage to nontarget crops and other plants has proved to be a significant, continuing problem. In 2017 and 2018, state lead agencies (SLAs) and growers reported widespread and costly damage to tens of thousands of acres of non-resistant soybean and cotton crops and other crops and plants. Despite these reports, in October 2018, EPA approved additional two-year conditional registrations for three "reduced-volatility" dicamba products with some modestly more stringent restrictions on use. Neither the new formulations nor the additional use

⁴ Steckel, L. and D. Foster. 2021. Dicamba-resistant waterhemp confirmed in Tennessee. Univ of Tennessee Institute of Agriculture and Foster, D. and L. Steckel. 2022. Confirmation of dicamba-resistant Palmer amaranth in Tennessee. Cambridge Univ. Press.

⁵ Quinn, L. 2021. First dicamba-resistant waterhemp reported in Illinois. ACES News, Univ. of Illinois.

restrictions appeared to result in meaningful reduction in off-site movement, and SLAs continued to receive reports of damage to crops and plants not engineered to be resistant to dicamba. In a May 2021 report regarding the 2018 dicamba registration decisions, EPA's Office of Inspector General stated: "The EPA's actions on the dicamba registrations left the decision legally vulnerable, resulting in the Ninth Circuit Court of Appeals vacating the 2018 registrations for violating FIFRA by substantially understating some risks and failing to acknowledge others entirely."

Nonetheless, additional registrations allowing OTT use of dicamba were issued in subsequent years. These featured additional restrictions aimed at further reducing off-site movement, including but not limited to seasonal cut-off dates that prohibited use of dicamba on soybean or cotton in particular areas after particular calendar dates (hot weather is believed to be a factor that increases the likelihood of volatility). OTT use is also now "restricted use" under section 3(d) of FIFRA, which requires that applications be performed only by the supervision of trained, certified applicators. While EPN cannot say with certainty that these restrictions have not resulted in any lessening of off-site movement (and related damage), it seems apparent that these restrictions have not provided the desired or necessary protection for those people who have been, and continue to be, harmed economically by off-site movement of dicamba.

Label Restrictions and Off-label Applications

The labeling for the currently proposed registrations is complicated and proposes multiple conditions that must be followed by applicators. The conditions outlined in the announcement proposing OTT dicamba registrations include:

- Maintaining a 240-ft downwind buffer.
- The spray solution must include an approved drift reduction agent and pH buffering volatility reduction agent added to the tank in higher percentages as temperatures increase.
- Temperature-dependent application restrictions to manage volatility. Users have flexibility to implement temperature-dependent restrictions by reducing the percent of field treated, including by using precision agriculture techniques, or prohibiting certain tank mixes at higher temperatures.
- No applications at temperatures above 95 degrees Fahrenheit.
- Three points of mitigation required based on the runoff/erosion mitigation menu.⁶
- Users must access and follow any applicable endangered species bulletin from "Bulletins Live! Two" (BLT) web-based system.⁷ Six points of runoff/erosion mitigation will be required in some pesticide use limitation areas where pesticide exposures are likely to impact the continued existence of a listed species, which may include a reduction in survival or recovery of the species.

Restrictions on previously approved product labels are very similar to the restrictions being proposed for these new registrations. There are few new proposed restrictions which would appear to mitigate the off-target damage that has occurred over the years. Anecdotal information indicates that in many parts of the country, users were unable to apply dicamba in compliance with similar labeling restrictions on the previously registered dicamba OTT products. Even when such applications were theoretically possible in some areas, especially where there were application date cutoffs, there were only a few days, at best, on which label-compliant applications could be made. While the new restrictions may theoretically reduce risks,

⁶ <https://www.epa.gov/pesticides/mitigation-menu>

⁷ <https://www.epa.gov/endangered-species/bulletins-live-two-view-bulletins>

EPN expects the added restrictions are going to make label-compliant applications even less practical. Further, EPN thinks they would be quite difficult, if not impossible in many cases, to enforce. Even though label-compliant applications are severely limited or impossible in many parts of the country, it is reasonable to assume that many users made (and are likely to make) dicamba applications under conditions that lead to off-target movement of the product. Post-application volatilization of dicamba and subsequent transport to neighboring areas caused (and would continue to cause) serious damage to non-target plants. This is shown by the thousands of incidents that were reported to SLAs following the introduction of OTT uses.⁸ In fact, SLAs received so many incident reports that they were able to investigate only a very few in a timely manner. As a result, people whose plants were injured by dicamba usually saw no effective SLA response to their reports. Anecdotal information suggests that people who have experienced damage caused by dicamba have largely given up on reporting the incidents to EPA or SLAs. Thus, any apparent decline in reported incidents probably does not reflect improvement in the safe use of dicamba, but rather the fact that reporting incidents to SLAs does not make any difference, or that despite incidents occurring, many are not reported.

EPA Cannot Make a Valid Risk-Benefit Decision Under FIFRA That Would Allow the Proposed Dicamba Registrations

Under Sections 3(c)(5) and 3(c)(7) of FIFRA, EPA cannot grant an application for pesticide registration unless, among other things, the agency determines that the use of the pesticide will not result in “unreasonable adverse effects on the environment.” In Section 2(bb), FIFRA defines “unreasonable adverse effects on the environment” as (in part) “any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of [a] pesticide.” Thus, FIFRA requires EPA to engage in a risk-benefit balancing before registering a pesticide. EPA’s regulations make clear that EPA may not grant an application for registration unless EPA has determined that the proposed pesticide and use will not “cause unreasonable adverse effects on the environment.”

The agency has not quantitatively assessed some of the major risks, including the damage to neighboring crops, damage to other types of non-target plants, including threatened and endangered plants, and damage to the habitats for threatened and endangered species. Likewise, the agency has not quantified how many growers are planting GE cotton and GE soybeans (but are not treating their crops with dicamba) as a way to ensure their crops won’t be destroyed by others’ use of dicamba. The price premium for the GE cotton and soybeans effectively reduces the profits for those growers. Further, EPA has not addressed in detail the social costs associated with pesticide use, even though FIFRA specifically requires that they be considered in risk-benefit determinations under FIFRA.

EPN is unaware of the public availability of the detailed information needed to conduct a complete risk-benefit assessment for these new uses. This is particularly true for information needed to conduct a thorough assessment of the negative economic impact suffered by growers and others due to dicamba damage to crops and other nontarget plants. In the absence of the information required for the benefits assessments, it is not possible to balance the economic value of dicamba realized by soybean and cotton growers with the economic damage caused by off-target movement. In addition, given the existing reports of weed resistance to dicamba on cotton and soybeans and the likelihood that more resistance will occur

⁸ See Beyond Pesticides report: [Herbicide Dicamba Linked to Crop and Plant Damage and Cancer Subject of Deregulation Despite Court Ruling - Beyond Pesticides Daily News Blog](#).

with further use, there is a great deal of uncertainty associated with any benefits to users of the proposed new products.

In many circumstances, this lack of precision on benefits might not be an insurmountable barrier to registration. See, e.g., 40 CFR 152.112(e) and 152.114(d). EPN is aware that EPA often “presumes” some level of benefits when making registration decisions, and EPN does not challenge the use of that presumption in appropriate circumstances. But when risks associated with a proposed use of a pesticide are not negligible, EPA must have a sound reason for relying upon only presumed or imprecise benefits. And when risks are substantial, as is the case for dicamba, EPN believes EPA must address benefits with much greater precision and clarity: relying on “presumed benefits” has no utility in such situations.

The risks posed by the proposed registrations are far greater than negligible, yet they are also imprecise. EPN is not aware of any pesticide that has likely caused more off-site economic damage than dicamba since the OTT uses on soybeans and cotton were registered. From 2016 until 2020, EPA and the registrants attempted to prevent off-site movement of dicamba by adding “anti-volatility” ingredients, restrictions on the timing of applications, and new directions for use. None of this appeared to have any meaningful impact toward resolving the volatility problem with dicamba. At this point, it is clear to EPN that neither EPA nor registrants have identified conditions that would allow the proposed uses of dicamba without resulting in significant off-site movement of and damage by the pesticide.

While EPA and the registrants are well aware that a large number of incidents of off-site damage were reported after the registration of OTT dicamba use on soybeans and cotton was approved in 2016, and that the number of actual incidents was likely much greater than the number of reported incidents, EPN is not aware that either EPA or the registrants has ever attempted to identify with precision the amount of economic damage caused by the off-site movement of dicamba. EPN has not seen any identification of the likely extent of crops or ornamental plants affected by off-site movement of dicamba, nor has EPN seen any reasoned estimate of the likely economic damage (or reasonable range of damage) caused by this off-site movement. While the Ninth Circuit may have been correct that EPA has “underestimated” the economic harm caused by off-site movement of dicamba, EPN has greater concern with a perhaps more troubling issue: neither EPA, state agencies, nor pesticide registrants have identified any plausibly accurate estimate of the likely damage caused by dicamba over the past eight years. Dicamba appears to be causing considerable off-site damage, but we simply do not know how much actual damage has resulted, is continuing to result, or is likely to result from the past OTT and proposed uses of dicamba.

Instead of adequately quantifying the costs (and benefits) of OTT dicamba use, EPA seems to have based its registration decisions on the hope that measures designed to “minimize the level of volatilization” are meaningful and can justify the proposed registrations. In doing so, EPA and registrants have allowed third parties to continue to be at risk so that growers continue to have access to dicamba to apply to their resistant soybeans and cotton. Leaving aside the question of whether this would be an appropriate outcome if EPA had adequate knowledge to conclude that the economic benefits to dicamba growers exceeded the economic harm to innocent third parties who have no voice or interest in dicamba use, EPN submits that this is simply unacceptable when EPA has little to no knowledge of the actual economic benefits and costs that will result if the proposed products are registered.

In sum, to lawfully grant the proposed registrations, EPA must determine that use of dicamba under the terms of the registration will generally not cause “unreasonable adverse effects on the environment” or, more simply, that the likely benefits of the proposed pesticide use will exceed the likely risks, i.e., the costs of

off-target plant damage expected from the proposed use. Because of significant uncertainties concerning both the risks and benefits associated with the proposed uses of dicamba, EPN does not believe EPA can make a legally supportable decision to grant the applications.

More practically, granting registrations similar to those granted in the past decade would continue to leave innocent third parties shouldering the economic consequences of the use of dicamba by others, while allowing dicamba-using growers to enjoy the economic benefits of dicamba use without any responsibility for economic costs and damage to others associated with that use.

EPA cannot make a registration decision without addressing the readability of its overly complex labeling requirements for OTT use of dicamba – product labeling that is itself both lengthy and complex, and that refers users to multiple complicated websites and other external information sources.

EPA's proposal to register three dicamba products for OTT use on dicamba-tolerant soybeans and cotton also fails to consider the criterion in FIFRA sec. 3(c)(5)(B). In addition to finding that the use of the pesticide product will not cause "unreasonable adverse effects on the environment" as specified in FIFRA sec. 3(c)(5)(C) and (D), FIFRA sec. 3(c)(5)(B) requires the agency to determine that "its labeling and other material required to be submitted comply with the requirements of [FIFRA]." Among other FIFRA requirements pertaining to pesticide labeling, it is unlawful to sell or distribute a pesticide that is "misbranded." FIFRA sec. 12(a)(1)(E). FIFRA sec. 2(q)(1)(E), (F) defines "misbranded" to mean that:

A pesticide is misbranded if

(E) any word, statement, or other information required by or under the authority of [FIFRA] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(F) the labeling accompanying it does not contain directions for use which are necessary ... and if complied with, ... are adequate to protect public health and the environment.

Note: FIFRA sec. 2(p)(2) defines the term, "labeling," to include any source of information to which reference is made. For example, because the labeling of dicamba products refers to the BLT website, the Bulletins found on EPA's website become labeling. Likewise, reference to the Worker Protection Standard in 40 CFR Part 156 makes the content of the rule "labeling."

Thus, in making a registration decision, FIFRA requires EPA to examine closely whether the labeling of an applicant's pesticide is "likely to be read and understood," such that following the use directions is "adequate to protect public health and the environment." If not, the agency cannot make the finding required by FIFRA sec. 3(c)(5)(B) that is a prerequisite for registration.

The draft labeling materials for the proposed dicamba products are similar and so lengthy and complex that they do not meet the standards for registration. The Engenia product labeling, for example, includes a paper label (or an attached booklet) that is 20 pages long with text in two single-spaced columns. It has no table of contents, meaning that the user must search the entire document to find important information. Quoting

from the printed labeling, the user must also consult other sources of information for requirements or recommendations:

- The user must check www.EngeniaHerbicide.com/labels no more than 7 days before application of this product for additional labeling, including state restrictions. Where applicable, users must comply with additional requirements found on this website.
- Follow the manufacturer's instructions for cleaning and maintaining PPE.
- Under some conditions, dicamba has the potential for runoff several days after application. Poorly draining, wet, or erodible soils with readily visible slopes toward adjacent sensitive areas are more prone to produce runoff. When used on erodible soils, best management practices for minimizing runoff should be employed. Consult your local Soil Conservation Service for recommendations in your use area.
- Observe all precautions, restrictions, and limitations in this label and the labels of products used in combination with this product.
- The following information must be recorded and kept as required by the Federal Pesticide Record Keeping Program, 7 CFR Part 110.
- Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170.
- Wastes resulting from this product must be disposed of on-site or at an approved waste disposal facility. Pesticide, spray mixture, or rinsate that cannot be used according to label instructions must be disposed of according to federal, state or local procedures under Subtitle C of the Resource Conservation and Recovery Act.
- Nozzles: Use only approved nozzles and pressure as listed on www.engeniatankmix.com.
- You must follow the measures contained in the Endangered Species Protection Bulletin for the area in which you are applying the product. To obtain Bulletins, no more than six months before using this product, consult <http://www.epa.gov/espp/> or call 1-844-447-3813.
- Engenia® herbicide will control or suppress the following weeds when used at rates described in Table 2. See additional information about weeds which are known to be resistant to dicamba at www.Resistance-Information.BASEUS.
- Use manufacturer's recommendation for boom height or 24 inches above the target pest/crop height, whichever is smaller.
- Plant injury could occur if contact between this product and these crops/plants occurs. See www.driftwatch.org or other sensitive crop registry websites for more information on possible sensitive sites near your application location.
- You check [sic] the list of EPA approved products for use with Engenia at www.engeniatankmix.com no more than 7 days before applying Engenia.

These instructions have myriad problems. Finding federal regulations may not be straight-forward. Few users will possess current, paper copies of the two volumes of the Code of Federal Regulations listed on the Engenia labeling. Locating the citations on the internet using Google or another search engine would require high-speed internet service, which is unavailable in many rural areas of the country. Even a Google search does not immediately connect the user to the CFR text of the Worker Protection Standard.

Checking just one of the websites could also challenge users. For example, EPA's tutorial on using the BLT website contains eight modules covering five distinct steps a user needs to follow to identify relevant restrictions. To locate any additional restrictions on the use of the product, the user must first go through

multiple steps – entering information on the location of intended use, the month of intended use, and the product registration number. Assuming the user goes to the website and enters correct information, the website brings up one or more Bulletins for the intended use site(s). The user must then search the Bulletin(s) to locate the restrictions that pertain to the specific product he intends to use. Failure to obtain and follow the restrictions would put endangered or threatened species or their habitats at increased risks – risks that EPA assumes will not occur because EPA expects users to know and comply with the website’s restrictions. This assumption, EPN believes, is almost certainly incorrect.

In sum, the Engenia labeling directs users to five different websites, three different sets of federal regulations, two different sets of state and/or local requirements, two different sets of manufacturers’ instructions, Soil Conservation recommendations, and the labels of other products that would be used with Engenia. These resources are either challenging to find, difficult to decipher, or both. Expecting all users to read and understand the printed labeling, as well as all of the additional labeling information referred to in the printed labeling, is wholly unreasonable. It is even less realistic to think that users will accurately understand and follow such a large, complex body of instructions.

EPN contends that, if approved with the proposed labeling, end-use dicamba products should be deemed “misbranded.” In the case of labeling designed to protect threatened and endangered species and their critical habitats and to tell users how to control volatilization, the labeling is not “likely to be read and understood” and is not “adequate to protect public health and the environment.”

The continuing pattern of dicamba incidents refutes any notion that the required annual applicator training will overcome the challenges of understanding the myriad, complex restrictions users must follow to apply dicamba properly. As documented by SLAs, damage to crops and other plants caused by dicamba continued to be widespread, even when the most recent EPA registration limited OTT use only to certified applicators and required the users to receive dicamba-specific training every year.

The only explanations for why off-site damage problems persist are either that, even with training, the labeling is ineffective at communicating the applicable restrictions or that users understand but simply cannot or do not comply with the restrictions. In EPN’s view, both explanations are likely correct to some extent. Willful non-compliance should raise concerns about whether the OTT uses meet the standard of FIFRA section 3(c)(5)(D) – “when used in accordance with widespread and generally recognized practice, [the pesticide] will not generally cause unreasonable adverse effects on the environment.” Nonetheless, we think the labeling deficiencies are probably a major factor and the proposed registration should also be found inadequate under FIFRA section 3(c)(5)(B).

Conclusion

EPN believes that EPA cannot make a valid risk-benefit determination under FIFRA that would allow registrations of the currently proposed OTT dicamba registrations on soybeans and cotton because there are significant known risks and uncertain benefits that cannot be reliably quantified or estimated. Additionally, the current labeling structure makes it difficult to comprehend instructions to limit volatility and does not meet registration requirements. EPN recommends EPA deny the proposed registrations for new uses of dicamba on dicamba-resistant soybeans and cotton.