

## WASHINGTON REPORT

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### **EPA Re-Registers Dicamba Through 2020**

On October 31, EPA extended the registration of Xtendimax with Vaporgrip, Engenia, and Fexapan through December 20, 2020. Details are at: <https://www.epa.gov/ingredients-used-pesticide-products/registration-dicamba-use-dicamba-tolerant-crops>

**New Dicamba Product labels:** [Xtendimax with Vaporgrip](#) (Updated since Nov. 1, 2018), [Engenia](#), & [Fexapan](#).

**Dicamba federal register documents:** EPA has also posted several documents on the regulations.gov website pertaining to dicamba: <https://www.regulations.gov/docket?D=EPA-HQ-OPP-2016-0187>. Under “Supporting Documents” there are two documents: 1) **Dicamba Pesticide Use Limitation Areas - County list**; and 2) **The Scientific Basis for Understanding the Off-Target Movement Potential of Xtendimax**, which is a 46 pg document from Monsanto that explains why (a) vapor drift occurring due to volatilization should not result in impacts off the treated field; and (b) spray drift will not occur past the label's required buffer distances in amounts that would have an adverse effect on plant height. Also, under the “Comments Section”, there is a post from Oct. 31, 2018 titled “**Dicamba 2018 Comments**”, which is 553 pages of documents that EPA received from stakeholders asking them to re-reregister, not re-register, etc.

**Dicamba lawsuit.** The National Family Farm Coalition, Center for Food Safety, Center for Biological Diversity (CBD) and Pesticide Action Network (PAN) North America filed a lawsuit against EPA in 2017 claiming that the 2016 registration of the 3 new dicamba herbicides violated the Endangered Species Act and FIFRA. See “[Ninth Circuit Dicamba Battle](#)” for more details. If the Ninth Circuit Court of Appeals rules in favor of the plaintiffs, EPA would have to suspend the registration of the three new dicamba products. A decision may not occur until this coming spring, but could happen in the coming weeks.

### **Farm Bill Agreement Reached**

The House voted 369-47 on Dec. 12 to pass the 2018 Farm Bill, after the Senate approved it 87-13 the day before. It is now headed to the desk of the President, who is expected to sign it. The measure is divided up into 12 titles. Title VII reauthorizes a number of important USDA research programs including the Agriculture and Food Research Initiative (AFRI), the Specialty Crop Research Initiative (SCRI) and the Organic Agriculture Research and Extension Initiative (OREI). Under SCRI, language was added to focus specialty crop research on “emerging and invasive species”, efforts to achieve a better understanding of “pesticide application systems and certified drift-reduction technologies”, and “mechanization and automation of labor-intensive tasks in production and processing”. Funding for AFRI and SCRI will remain at previous levels, while mandatory funding for OREI was significantly bumped up and will reach \$50 million per year by FY 2023. Another major reauthorization and victory for the ag research community was funding for the Foundation for Food and Agriculture Research (FFAR) at \$185 million. The Farm Bill also re-establishes a competitive grants programs for the acquisition of research equipment for use in food and agricultural sciences programs that was not available in the

previous Farm Bill. It stipulates grant amounts may not exceed \$500,000 to an eligible institution and authorizes \$5 million for each of fiscal years 2019 through 2023.

There were a number of regulatory fixes in the House Farm Bill that unfortunately did not make it into the final compromise agreement between the House and Senate. This included no legislative fix for the duplicative National Pollutant Discharge Elimination System (NPDES) program permits, no to the recognition and role of State lead agencies in restricting the authority of a political subdivision of a State to regulate a pesticide beyond the federal limits, no to passage of the Pesticide Registration Improvement Act (H.R. 1029), and no to the Congressional repeal of the 2015 Waters of the United States (WOTUS) rule. There was a provision in the House version that provided legislative guidance to streamline the FIFRA-Endangered Species Act (ESA) consultation process, which is in major need of repair. While that language did not make it in the compromise agreement, the Farm Bill did create a “FIFRA Interagency Workgroup” that will be composed of reps from USDA, Interior, Commerce, EPA and the Council on Environmental Quality that will “provide recommendations regarding, and to implement a strategy for improving, the consultation process required under section 7 of the Endangered Species Act of 1973 for pesticide registration and registration review”. In carrying out these duties, the Farm Bill directs this interagency workgroup to “consult with, representatives of interested industry stakeholders and nongovernmental organizations.”

Other items of interest to weed science stakeholders that made it into the final version of the 2018 Farm Bill included the approved use of “Categorical Exclusions” by the Forest Service and Bureau of Land Management for invasive weed control for the purpose of Sage Grouse and Mule Deer habitat restoration as well as to the legalization of the commercial cultivation and sale of industrial hemp, including \$2 million per year for research on “agronomic rotational purposes” of alternative crops such as hemp. Finally, the Farm Bill also establishes a USDA pilot program that shall be known as the Agriculture Advanced Research and Development Authority (AGARDA) to carry out advanced research and development. The goals of AGARDA are “to develop and deploy advanced solutions to prevent, prepare, and protect against unintentional and intentional threats to agriculture and food in the United States; to overcome barriers in the development of agricultural technologies, research tools, and qualified products and projects that enhance export competitiveness, environmental sustainability, and resilience to extreme weather; to ensure that the United States maintains and enhances its position as a leader in developing and deploying agricultural technologies, research tools, and qualified projects and products that increase economic opportunities and security for farmers, ranchers, and rural communities; and to undertake advanced research and development in areas in which industry by itself is not likely to do so because of the technological or financial uncertainty. It will have its own director and be funded at \$50 million per year through FY 2023.

#### **Five of 12 Appropriations Bills Approved, but Not Ag, Interior or EPA**

Five of the 12 FY 2019 appropriations bills have been completed. These include: 1) Military Construction and Veterans Affairs; 2) Energy and Water; 3) the Legislative Branch; 4) Labor, Health and Human Services, and Education; and 5) Defense. However, Congress still must approve the following seven FY 2019 appropriations bills: 1) Agriculture; 2) Commerce, Justice, and Science; 3) Financial Services; 4) Homeland Security; 5) Interior and Environment; 6) State and Foreign Operations; and 7) Transportation and Housing and Urban Development (T-HUD).

Congress did approve a continuing resolution (CR) that will keep the federal government funded through December 21, 2018. It seems likely that Congress and the President will not reach an agreement on funding for a border wall, thus the federal agencies that currently don't have approved FY 2019 funding (i.e. USDA, Interior, EPA) will shut down after Dec. 21, while agencies that already have approved FY 2019 appropriations (i.e. Defense, Education, Labor, Army Corp of Engineers) will not be affected. Lawmakers had hoped to bundle the Agriculture, Interior-Environment, T-HUD and Financial Services bills into one minibus package, but progress ground to a halt due to differences between the House and the Senate on specific funding levels and certain policy riders.

### **USDA Ag Research Leadership Almost in Place**

USDA Secretary Sonny Perdue swore in Dr. J. Scott Angle as the Director of the National Institute of Food and Agriculture (NIFA) on October 29. The White House appointed Angle for a six-year term at the agency on August 31. Dr. Angle was most recently President and CEO of the International Fertilizer Development Center (IFDC). He worked for 24 years as a professor of soil science and administrator for the Maryland Agricultural Experiment Station and Maryland Cooperative Extension at the University of Maryland. He also served as Dean and Director of the College of Agricultural and Environmental Sciences at the University of Georgia for 10 years.

Dr. Scott Hutchins had his Senate nomination hearing on November 28 and is awaiting final confirmation by the Senate for his role as chief scientist and USDA Under Secretary for Research, Education and Economics. He was the Global Head of Integrated Field Sciences for Corteva and is an entomologist by training. He will oversee the operations of USDA-ARS, NIFA, NASS, and possibly ERS.

### **USDA-ARS Weed Science Under Review**

The National Program Leader (NPL) overseeing weed science programs within the ARS's National Program 304 (NP 304) Crop Protection and Quarantine, Dr. Rosalind James, has resigned from that position and is now the ARS Associate Area Director for the Northeast Area. We expect USDA to hire a new NPL to oversee weed science and we would definitely like this person to be a weed scientist. In addition, USDA-ARS NP 304 is undergoing review and seeking input to help develop a new 2018-2022 five-year Action Plan. Crop Protection and Quarantine stakeholders are invited to an all-day workshop on February 6, 2019. For background information regarding NP 304, see: <https://www.ars.usda.gov/crop-production-and-protection/crop-protection-and-quarantine/>. The workshop will present highlights from NP 304's accomplishments during the last five years, and the results of a recent Retrospective Review of this National Program's performance.

### **USDA-NIFA Move from DC**

In August, USDA announced that NIFA and ERS would be moving from D.C. While the new location for the agencies has yet to be determined, the timeframe for the move is expected to occur by the end of 2019. USDA's announcement of intent to move the agencies has garnered many concerns from the agricultural research community, including WSSA. However, the Science Policy Committee has not reached a consensus on whether to support or oppose the

move. WSSA did submit a letter to USDA Secretary Perdue with some concerns and questions. In October, USDA received 136 “expressions of interest” from various institutions and cities in 35 states to be the new host location for NIFA and ERS.

### **Alexandra Dapolito Dunn on Track for EPA’s Top Chemical Safety Spot**



Ms. Dunn cleared her Senate confirmation hearing on November 29 to lead EPA’s Office of Chemical Safety and Pollution Prevention (OCSPP), which oversees the Office of Pesticide Programs (OPP). She is awaiting a final confirmation vote by the Senate. She is an environmental lawyer and law professor specializing in water quality issues. Alexandra was the Regional Administrator for EPA Region 1 (Northeast U.S.) and prior to that, served as executive director and general counsel for the Environmental Council of

States (ECOS) as well as the Association of Clean Water Administrators.

### **EPA and Army Propose New WOTUS Definition**

On December 12, the EPA and the U.S. Army Corp of Engineers (the agencies) proposed a new definition of “waters of the United States” (WOTUS) in an attempt to provide clarity, predictability and consistency so that the regulated community can easily understand where the Clean Water Act applies—and where it does not. Under the agencies’ proposal, traditional navigable waters, tributaries to those waters, certain ditches, certain lakes and ponds, impoundments of jurisdictional waters, and wetlands adjacent to jurisdictional waters would be federally regulated. It also details what are not “waters of the United States,” such as features that only contain water during or in response to rainfall (e.g., ephemeral features); groundwater; many ditches, including most roadside or farm ditches; prior converted cropland; stormwater control features; and waste treatment systems.

The agencies’ proposal is the second step in a two-step process to review and revise the definition of WOTUS consistent with the President’s February 2017 Executive Order, which states that it is in the national interest to ensure that the nation’s navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of Congress and the states under the Constitution.

The agencies believe this proposed definition appropriately identifies waters that should be subject to regulation under the Clean Water Act while respecting the role of states and tribes in managing their own land and water resources. States and many tribes have existing regulations that apply to waters within their borders, whether or not they are considered “waters of the United States.” The agencies’ proposal gives states and tribes more flexibility in determining how best to manage their land and water resources while protecting the nation’s navigable waters as intended by Congress when it enacted the Clean Water Act.

The agencies will take comment on the proposal for 60 days after publication in the Federal Register. EPA and the Army will also hold an informational webcast on January 10, 2019, and will host a listening session on the proposed rule in Kansas City, KS, on January 23, 2019. More information is at: <https://www.epa.gov/wotus-rule>.

### **Lohr Appointed NRCS Chief**



USDA Secretary Sonny Perdue announced on December 3 that Matt Lohr, a former lawmaker from Virginia and former state agriculture commissioner, will be leading the Natural Resources Conservation Service (NRCS) at the USDA. In his role, Lohr will provide leadership for NRCS and its mission to support America's farmers, ranchers, and forest landowners in their voluntary conservation efforts through a network of over 3,000 offices in communities nationwide. Lohr owns and operates Valley Pike Farm, Inc. in Virginia. He held public office, serving in the Virginia House of Delegates from 2006-2010 and then served as Virginia's Commissioner of Agriculture and Consumer Services from 2010 to 2013. More recently, Lohr worked as Knowledge Center Director for Farm Credit of the Virginias, a customer-owned financial cooperative that provides resources and education outreach to local farmers and the community.

### **USDA Announces Update to National IPM Road Map**

On October 24, USDA announced the first update since 2013 of the [National Road Map for Integrated Pest Management](#) (IPM). The update culminates a yearlong review by the [Federal Integrated Pest Management \(IPM\) Coordinating Committee](#) (FIPMCC), a joint effort that is coordinated by the Office of Pest Management Policy (OPMP) in the Office of USDA's Chief Economist with representatives of all federal agencies with responsibilities in IPM research, implementation, or education programs. These agencies include EPA, Interior, and Department of Defense. The National Road Map for IPM was first introduced in 2004 and is periodically updated to reflect the evolving science, practice, and nature of IPM. One very welcome update in the Road Map is the recognition of the role of pesticide safety education in IPM.

### **National Invasive Species Awareness Week (NISAW): February 25 – March 1, 2019**

This is the 20<sup>th</sup> year of national invasive species awareness events occurring. For the first time, we're looking at two additional NISAW events, one in April dealing with policy issues and one in June that will be "NISAW in the Field" for state and local organizations to host public hands-on invasive species management events. If you're interested in helping, please let me know!

### **National Survey of Common and Troublesome Weeds**

The 2018 survey results for weeds in aquatic and non-crop areas is posted at <http://wssa.net/wssa/weed/surveys/>. The most troublesome weed in the three aquatic areas was hydrilla and most troublesome in the four non-crop areas was cogongrass. Not surprisingly, both those weeds are on the federal noxious weed list. What was surprising is that hydrilla was also the most common aquatic weed in the U.S. What can APHIS do to help get these weeds under control? Likewise, cogongrass is listed as the 6th most common non-crop weed. The most common non-crop weeds are the *Bromus spp.*, in particular downy brome (cheatgrass). The 2019 weed survey will focus on weeds in broadleaf crops, fruits and vegetables.

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