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June 3, 2024

Mr. Charles Smith
Director
Registration Division
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460-0001

Submitted electronically via Federal eRulemaking Portal

RE: Dicamba: New Use on Dicamba-Tolerant Cotton and Soybeans (EPA-HQ-OPP-2024-0154)

Dear Mr. Smith,

I am writing on behalf of New York Farm Bureau to comment on the proposed registration for the use of low-volatility dicamba on dicamba-tolerant soybeans and cotton. Our organization represents farmers, including those who grow soybeans, in the state of New York. For years, many soybean growers in New York have relied on access to post-emergent use of low-volatility dicamba to control destructive weeds and support important conservation practices. We strongly support EPA advancing a new registration for the use of low-volatility of post-emergent dicamba for use on soybeans. Furthermore, we urge EPA to complete its work on a new low-volatility dicamba registration expeditiously, ideally no later than the end of September 2024 to give much-needed certainty to markets and supply chains.

Value of Post-Emergent Low-Volatility Dicamba for Soybeans

Access to post-emergent use of low-volatility dicamba is incredibly important to soybean growers in New York. As stewards of the environment, farmers continue to engage in Best Management Practices ("BMP's") that will continue to reduce their footprint. Two critical methods in which farmers do this is through reduced tillage, or no tillage, controlling noxious weeds as that may pose a threat to crops. Without having access to post-emergent use of low-volatility dicamba, farmers will have to find other ways to reduce weed pressures and will have to engage in methods such as increased tillage.

Of note, we are greatly concerned with and oppose the proposed registration limiting low-volatility dicamba applications only for pre-emergent use on dicamba-tolerant soybeans. This restriction would significantly limit the agronomical viability of low-volatility dicamba soybean farmers, especially those who otherwise lack adequate options to control damaging weeds during the vital post-emergent period between when a crop emerges and the canopy closes. For many farmers, dicamba is the only remaining post-emergent herbicide to which their local weed populations have not developed resistance. Denying farmers post-emergent access to this tool will expose their crop to significant weed damage and may require some farmers to resort to more environmentally

impactful weed control methods, including increased soil tillage. We urge EPA to offer post-emergent access to low-volatility dicamba in any future registration.

Proposed Endangered Species Act Restrictions

We also have concerns with the proposed Endangered Species Act (ESA) restrictions in the draft registration. First, the proposed omnidirectional spray drift buffers are not consistent with EPA's current approach to buffers. We urge EPA to adopt only downwind spray drift buffers as necessary in any final registration. Regarding the size of the buffers, we do not believe the proposed 310-foot in-field buffer is necessary to mitigate spray drift risks, nor is it supported by EPA's most recent approach to spray drift modeling. In EPA's draft Herbicide Strategy, the most restrictive downwind buffer for ground boom applications proposed was 200-feet using very fine to fine droplet size. While we have concerns that even 200-foot buffers are likely excessive, the proposed 310-foot buffer exceeds even the conservative draft Herbicide Strategy buffers.

Moreover, EPA should revise its ground spray drift estimates using higher tiered modeling, as EPA has suggested it will be doing for aerial applications in its April 2024 update to the draft Herbicide Strategy. If EPA retains an unnecessarily large 310-foot downwind buffer, we are concerned it will leave large areas of fields untreated (especially in regions with smaller field sizes), allowing a refuge area for damaging weeds to re-infest fields. Finally, EPA should also use higher tiered modeling and the best available science and commercial data (pesticide usage, percent crop treated, precent of area cropped, etc.) for its dicamba ESA risk assessment to verify the proposed six points are truly necessary for reducing runoff risks. Many farmers will incur significant costs in adopting runoff mitigations. Using high-quality data and modeling is imperative to ensure costly mitigations are truly necessary to protect species and habitat from jeopardy and adverse modification.

Product Stewardship and Reducing Off-Target Risks

We understand and share EPA's interest in minimizing off-target risks of dicamba. In New York, we have made significant strides to ensure the low-volatility dicamba is used responsibly, according to the label, and with reduced off-target risks. For example, in New York, farmers work closely with the Department of Environmental Conservation ("DEC") to engage in pesticide applicator education programs. As well as producers strictly following the instructions on the product labels, the DEC recommends that if farmers are mixing Dicamba with fertilizer, dicamba must be in the acid form and recommended application at rates not to exceed 0.125 pounds acid equivalent per acre. Since adopting these measures, we have seen significant reductions in off-target incidences since low-volatility dicamba was first launched nearly a decade ago, and we believe this tool can be responsibly stewarded moving forward.

Registration Timing and Supply Chain Impacts

Finally, we strongly encourage EPA to continue its work discussing registration conditions with any relevant registrants while reviewing comments to this docket and to finalize a new registration no later than September 2024. As EPA is aware, there is currently no registration in place for dicamba use for the 2025 growing season. The existing stocks order issued following the February 2024 court vacatur of three low-volatility dicamba registrations will also no longer be in effect next growing

season. This lack of certainty as to future product availability is currently a source of great apprehension for U.S. soybean production.

Currently, dicamba-tolerant soybean seeds are being grown for the 2025 growing season, anticipating that low-volatility dicamba will be available for use on the tens of millions of crop acres on which there are plans to plant them. This 2025 seed production decision was made months ago, long before the February 2024 court vacatur, and it is far too late to plant sufficient alternative soybean seed varieties for 2025. Moreover, herbicide manufacturers need sufficient time to produce new herbicide for use on tens of millions of acres, as existing supplies were largely exhausted for the 2024 season.

If a new low-volatility dicamba registration is not finalized ahead of the next growing season, or even by this fall to give supply chains time necessary time to react, it could cause significant market disruptions. Price spikes for alternative products and even input shortages could occur, which would inflict great economic harm on U.S. soybean farmers and the consumers we provide. We strongly urge EPA to commit the necessary resources to finalize a new registration decision no later than September 2024.

We appreciate EPA's consideration of a new registration for the use of low-volatility dicamba on dicamba-tolerant soybeans and cotton and strongly urge EPA to quickly advance this new registration effort. Dicamba is an important tool for many growers and will allow them to continue to farm productively and sustainably. Without the continued post-emergent access to low-volatility dicamba, we are concerned many soybean farmers will lack sufficient post-emergent weed control options, which may require some to resort to more environmentally impactful weed management options.

In order to prevent supply chain disruptions for the 2025 growing season, it is vital that a new registration is completed swiftly. Without a new registration completed by this fall, markets will not know whether dicamba will continue to be available and under what conditions, which could result in price spikes or shortages of alternative products. To prevent these avoidable harms, we urge EPA to advance work on this registration as swiftly as is possible.

We thank EPA for its work on this important effort and stand ready to assist EPA in completion of a new registration for low-volatility dicamba for post-emergent use on soybeans.

Sincerely,

Ashley Oeser
Associate Director of Public Policy and National Affairs Coordinator
New York Farm Bureau