

# Arkansas Regulation on Pesticide Classification: Dicamba Use Regulation (Effective: 3/11/19)

## Frequently Asked Questions (FAQs)

ADDITIONAL QUESTIONS MAY BE ADDED TO THIS DOCUMENT AS NEEDED

WHERE THE PRODUCT LABEL IS MORE RESTRICTIVE THAN THE PLANT BOARD'S RESTRICTIONS, THE LABEL MUST BE COMPLIED WITH.

**1. Q: What is the cutoff date for dicamba applications?**

A: Application of products labeled for agriculture use that contain dicamba are **prohibited from May 26th through October 31<sup>st</sup>**, except applications made:

- for turf, ornamental, direct injection for forestry activities and home use. These applications are allowed year round;
- for pasture and rangeland. These applications are allowed year round, however, such applications must maintain buffers required in Regulations on Pesticide Classification, Section XIII.B.2.; or
- pursuant to a special permit for Arkansas land east of the Mississippi river levee.

**NOTE:** Pursuant to an emergency rule adopted by the Plant Board March 22, 2019, applications of pesticides labeled for agricultural use that contain the active ingredient dicamba for pre-plant (burndown) are **prohibited after April 15**, with the following exception: Pesticides labeled for in-crop agriculture use, by ground, that contain the active ingredient dicamba and allow for pre-plant (burndown) may be applied until May 26. However, applications allowed after April 15 must maintain buffers required in Regulations on Pesticide Classification, Section XIII.B.2.

**2. Q: Can any formulation of dicamba be sold prior to May 26th?**

A: There are no date limitations on the sale or distribution of dicamba products registered in Arkansas.

**3. Q: What dicamba products can be sold or used between May 26th – October 31st?**

A: All dicamba products that are registered for sale in Arkansas can be sold at all times. For use dates, see Question 1.

**4. Q: Who can purchase and apply dicamba herbicides for in-crop use?**

A: Only three dicamba herbicides are currently registered in Arkansas for post-emergence use on dicamba-tolerant soybeans/cotton in 2019. The 2019 federal labels states, "RESTRICTED USE PESTICIDE for retail sale to and use only by Certified Applicators." This means that only fully certified and licensed Private Applicators (farmers) and Commercial / Non-Commercial Applicators can purchase OR use these products during 2019.

Registered Technicians and other non-certified applicators working under the supervision of a certified applicator may no longer purchase or use these products.

However, a non-certified person may pick-up and transport these products on behalf of the certified applicator if the RUP dealer has written authorization from the certified applicator granting such permission to that non-certified individual.

**5. Q: Are there record keeping requirements?**

A: Yes – The Arkansas State Plant Board requires the following records for ALL pesticides containing dicamba: Applicators must maintain records of each application of products with this designation. Said records must be retained for a period of three (3) years and be available for inspection by a Plant Board representative.

The records shall include:

- Name and address of the person(s) in control of the crops, plant, etc.;
- Location of the crop, plants, etc. treated. Location description must include county, nearest town, physical address if available, and GPS reading or map coordinates of the primary entrance to the field;
- Date, start and ending time of the application;
- Wind speed and direction at the start and ending time of the application and type of instrument used to measure wind speed and direction. The location of instrument at time of reading (preferably "field of application") must also be recorded;
- Complete brand name and EPA registration number of the material used;
- Number of acres and type of crop to which the material was applied;
- Type of equipment used. If the product was applied by a commercial applicator, record the Firm's Application Equipment number assigned to the equipment used by the Plant Board;

- Name of the application vehicle operator.

There are also record keeping requirements on the federal labels for in crop use of dicamba products. Whichever is has the most restrictive record keeping requirement, Arkansas State Plant Board rule or the Federal label, must be followed.

**6. Q: Is an Arkansas license required to purchase dicamba products in Arkansas?**

A: Yes - A private, commercial, non-commercial, license is required to purchase Class H products (i.e. dicamba containing products labeled for agricultural use). Additionally, proof of training must be provided to pesticide dealers prior to purchase.

**7. Q: Could you provide an overview of the training / certifications that are required to satisfy ASPB to be able to make the actual applications of dicamba?**

A: For the application of products designated under Class H, dicamba, the following training is required:

- Applications of products with this classification to dicamba-tolerant crops shall not be made without the Commercial, Non-Commercial, and Private Applicator, first completing dicamba specific training provided by a registrant of a dicamba product for use on dicamba tolerant crops.
  - Upon request, proof of training must be provided to the Plant Board.
  - Applicators must provide the proof of training required by paragraph 3.a to Pesticide Dealers prior to purchase.
- Applications of products with this classification to non-dicamba crops or pasture and rangeland shall not be made without Commercial, Non-Commercial, and Private Applicators first completing New Technology Certification training.
  - New Technology Certification training must be obtained through the Cooperative Extension Service.
  - Upon request proof of training must be provided to the Plant Board.

**8. Q: If a grower takes the training for in-crop use from a manufacturer does it have to be the manufacturer that makes the product they want to use? i.e.If applying Engenia must take the BASF; if applying Xtendimax must take Bayer's training, If applying Fexapan must take Corteva's training?**

A: No, training from any manufacturer of an in-crop use dicamba product is acceptable as long as the training is conducted in person.

9. **Q: Does the manufacturer training certificate count for the training required for burndown or do they have to have both the U of A Training for burndown and the manufacturer training for In Crop?**

A: A training certificate from the University of Arkansas Cooperative Extension online training for burndown, by ground, is required. Aerial application is exempt from this requirement.

A manufacturer training certificate is required for in crop use dicamba pesticides. These trainings are not interchangeable.

10. **Q: How can training be obtained for the in-crop use dicamba pesticides?**

A: Individuals will need to contact: Bayer (XtendiMax-1-844-RRXTEND (779-8363), BASF (Engenia) 1-800-832-HELP (4375), AND Corteva (FeXepan) 1-888-6-DUPONT (38-7668) for information about training.

11. **Q: Does the Arkansas State Plant Board provide translation of the label?**

A: No, the federal label is registered in English therefore the certified applicator must be able to read and interpret the label as it is registered with the State.

12. **Q: Does the manufacturer provide training in languages other than English?**

A: The public will need to contact the product manufacturer.

13. **Q: Do mixers/loaders/handlers need dicamba training to handle the product?**

A: Yes - The pesticide product label for these products states they are to be used by certified applicators only. Certified applicators involved in the application of products registered for over-the-top use on dicamba-tolerant soybean and/or cotton are required to complete the training annually.

Mixing/loading/ handling are activities considered to be "involved in the application". Anyone who is responsible for any part of the use and application process, which includes mixing, loading, application, or cleaning dicamba application equipment, must become a certified and licensed private applicator or a commercial applicator. Workers are not required to be certified and licensed if they are involved in nothing more than transportation of unopened dicamba containers or transportation of "hot loads" that were mixed by a certified and licensed applicator.

**14. Q: Will Dicamba training completed in another state reciprocate in Arkansas?**

A: Yes, dicamba training provided by a manufacturer of in-crop use dicamba pesticides will reciprocate with Arkansas. This training must be conducted in person not online.

**15. Q: Do aerial applicators that are flying burndown products need the New Technology Certificate from the Online training?**

A: No, aerial applicators do not need the University of Arkansas New Technology online training

**16. Q: What is the definition of a crop?**

A: USDA defines crops as plants that are cultivated either for sale or subsistence.

**17. Q. What is the definition of a non-dicamba tolerant crop?**

A. The Plant Board considers any broadleaf crop to be a non-dicamba tolerant crop.

NOTE: IF THE DEFINITION OF A SPECIALTY CROP AND NON-DICAMBA TOLERANT CROP IS NOT MET, THE FEDERAL LABEL BUFFER ZONES WILL APPLY.

**18. Q: Does the half mile buffer zone for non-dicamba tolerant crops, include gardens?**

A: Yes, the half mile buffer zone for non-dicamba tolerant crops applies to any non-dicamba broadleaf crop.

**19. Q: Can a City, with farm land within its city limits, regulate by ordinance the use of pesticides?**

A: No, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) prohibits local municipalities from enacting ordinances regarding the use of pesticides.

**20. Q: What is considered a specialty crop per the Arkansas rule?**

A: The Plant Board considers specialty crops to be the USDA definition of specialty crops "Fruits and vegetables, tree nuts, dried fruits and horticulture and nursery crops including floriculture."

See attached USDA document.

**21. Q: What is the buffer zone for specialty crops?**

A: 1 mile buffer in all directions if the USDA definition of specialty crops, referenced in Question 20, is met AND there is a minimum of 1,000 plants or the average annual crop sales for the previous three years exceeding \$25,000.

NOTE: IF THE DEFINITION OF A SPECIALTY CROP AND NON-DICAMBA TOLERANT CROP IS NOT MET, THE FEDERAL LABEL BUFFER ZONES WILL APPLY.

**22. Q: What is the buffer zone for specialty crops if the 1,000 plants or average annual crop sales for the previous three years exceeding \$25,000 requirement is not met?**

A: ½ mile

**23. Q: What is the definition of organic crop?**

A: Organic is a labeling term for food or other agricultural products that have been produced using cultural, biological, and mechanical practices that support the cycling of on-farm resources, promote ecological balance, and conserve biodiversity in accordance with the USDA organic regulations. This means that organic operations must maintain or enhance soil and water quality, while also conserving wetlands, woodlands, and wildlife. Synthetic fertilizers, sewage sludge, irradiation, and genetic engineering may not be used. Only products that have been certified as meeting the USDA's requirements for organic production and handling may carry the USDA Organic Seal.

**24. Q: Who is responsible for certifying a crop as organic?**

A: The National Organic Program (NOP), part of USDA's Agricultural Marketing Service (AMS), has regulatory oversight responsibilities over the USDA organic standards and the accreditation of organic certifying agents. The NOP also has authority to take appropriate legal action to enforce the organic standards and thus protect the integrity of the USDA organic standards, from farm to market, around the world.

**25. Q: Can a person's garden be certified as organic?**

A: The National Organic Program (NOP), part of USDA's Agricultural Marketing Service (AMS), has regulatory oversight responsibilities over the USDA organic certification standards.

Visit: <https://www.ams.usda.gov/about-ams/programs-offices/national-organic-program>

Or contact: Jennifer Tucker, Ph.D., Deputy Administrator

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**26. Q: If a crop is not certified organic, but enrolled in the National Organic Program, what is the buffer zone?**

A: If an individual can provide paperwork showing they are enrolled in the National Organic Program the buffer zone would be 1 mile in all directions.

**27. Q: What is this buffer zone for Hemp?**

A: ½ mile