

This Toxic Herbicide Is Unregulated Despite Court Order

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✓ Fact Checked

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STORY AT-A-GLANCE

- › In 2020, a federal court ruled the EPA ignored evidence that dicamba would lead to widespread crop damage and invalidated the registrations for this herbicide
- › Instead of pulling it from the market, the EPA reapproved it months later with minor label changes
- › In 2021, the EPA admitted that its changes made little difference, and dicamba was still causing grave damage, prompting a lawsuit alleging the agency failed to take action against the herbicide, despite the court order
- › During the 2021 growing season, the EPA received reports of about 3,500 dicamba-related incidents, which revealed more than 1 million acres of soybean crops were damaged due to dicamba drift; similar damage was expected during 2022
- › The EPA reported that these numbers significantly underestimate the true extent of dicamba-driven damage, but it still allows it to be widely used throughout the U.S.

Dicamba, a highly volatile herbicide known for drifting and damaging off-target crops, is still causing widespread environmental damage and, likely, harm to human health. This is despite a 2020 promise from the U.S. Environmental Protection Agency to take action against the chemicals, which are often sprayed “over the top” of genetically engineered dicamba-tolerant soybean and cotton crops.

In 2020, a federal court ruled, “The EPA made multiple errors in granting the conditional registrations”¹ for dicamba herbicides, ignoring evidence that they would lead to

widespread crop damage.

The court order invalidated the registrations for dicamba,² but instead of pulling it from the market, the EPA reapproved it months later with minor label changes. In 2021, the EPA admitted that its changes made little difference, and dicamba was still causing grave damage, prompting a lawsuit alleging the agency failed to take action against the herbicide, despite the court order.³

Dicamba Drift Devastates US Crops

Millions of acres of croplands across the U.S. have been damaged by dicamba drift,⁴ and there's also disturbing information that the chemical harms trees.⁵ Dicamba use has also turned farmers against one another, as those experiencing damaged crops blame neighboring farms for spraying dicamba.

When dicamba was first used, it was typically applied only sparingly and not during the growing season due to its known potential to kill nearby crops. As resistance grew to other herbicides, like glyphosate, however, Monsanto — now owned by Bayer — came up with a plan. As reported by investigative journalist Carey Gillam:⁶

“In 2011 Monsanto announced that glyphosate had been “relied on too long by itself” and said it planned to collaborate with BASF to develop a cropping system of genetically engineered (or GMO) crops that would tolerate being sprayed with dicamba. It said it would introduce a new type of dicamba herbicide that would not drift far from fields where it was sprayed.”

The newer dicamba was approved by the EPA in 2016, but it did not prove to be the panacea that Monsanto had promised. By November 2017, an estimated 3.6 million acres across 25 U.S. states had been damaged by dicamba drift.⁷ The EPA was aware of the damage then but didn't go nearly far enough to stop the desecration. According to the EPA:⁸

“In 2017 and again in 2018, EPA amended the registrations of all over-the-top dicamba products following reports that growers had experienced crop damage

and economic losses resulting from the off-site movement of dicamba.

The U.S. Court of Appeals for the Ninth Circuit vacated the 2018 registrations in June 2020 on the basis that 'EPA substantially understated risks that it acknowledged and failed entirely to acknowledge other risks.' Days after the court's decision, EPA issued cancellation orders for the affected products that addressed existing stocks."

EPA Admits It Failed to Stop Dicamba Damage

Four months after the 2020 court ruling, the EPA reapproved the toxic herbicides with new directions on the labels.⁹ The EPA reported:¹⁰

"In October 2020, EPA issued new registrations for two dicamba products and extended the registration of an additional dicamba product. These registration decisions were made with some input from EPA's career scientists and managers and were expected to address the risk concerns noted by the Ninth Circuit.

All three registrations included new measures that the Agency expected to prevent off-target movement and damage to non-target crops and other plants."

However, a follow-up conducted by the EPA in December 2021 revealed the same problems were occurring. The EPA admitted:¹¹

"Despite the control measures implemented in EPA's October 2020 dicamba registration decision, incident reports from the 2021 growing season showed little change in the number, severity, and/or geographic extent of dicamba-related incidents when compared to the reports the Agency received before the 2020 control measures were required."

During the 2021 growing season, the EPA received reports of about 3,500 dicamba-related incidents, which revealed:¹²

- More than 1 million acres of soybean crops were damaged due to dicamba drift
- Dicamba also damaged other non-target crops, including sugar beets, rice, sweet potatoes, peanuts and grapes
- Dicamba damaged plants and trees growing near homes and in wild areas, including a 160,000-acre wildlife refuge
- More than 280 of the incident reports were from counties that had imposed additional restrictions on dicamba use to protect endangered species near dicamba-tolerant soybean and cotton crops

Further, the EPA reported that these numbers significantly underestimate the true extent of dicamba-driven damage, noting:¹³

“Based on prior research and numerous stakeholder meetings, EPA has reason to believe the number of incidents reported significantly understates the actual number of incidents related to dicamba use. For example, in a 2020 memo, EPA estimated that one in 25 dicamba incidents was reported to EPA. No evidence available to EPA suggests that underreporting has changed.”

EPA Makes More Dicamba Label Changes

After their 2021 report revealed devastating damage due to dicamba, the EPA admitted that a similar amount of damage likely occurred during 2022:¹⁴

“EPA has not yet fully analyzed 2022 incident data, but based on incident reports received and discussions with state regulators, weed scientists, and academics, EPA has reason to believe dicamba-related incidents continued through the 2022 growing season as well.”

Still, in a bulletin released February 16, 2023, the EPA chose not to ban dicamba to stop its environmental destruction. Instead, it approved more labeling amendments intended to reduce the risks of over-the-top dicamba use. The revised labels state that over-the-

top dicamba application on dicamba-tolerant crops is prohibited after June 12, 2023, in Iowa, Illinois and Indiana and after June 20 in South Dakota.¹⁵

“This restricts over-the-top dicamba application to earlier in the growing season, when temperatures are likely to be lower, and is intended to reduce the potential for dicamba to volatilize and drift off-site,” the EPA noted.¹⁶

In 2020, a lawsuit was filed against the EPA by National Family Farm Coalition, Center for Food Safety, Center for Biological Diversity and Pesticide Action Network North America. It challenged the EPA’s reapproval of dicamba after the court had removed it.¹⁷ New filings in the lawsuit, made in 2023, again allege the EPA has endangered U.S. cropland by ignoring the 2020 court order. In a statement, the plaintiffs explained:¹⁸

“The new litigation was prompted by the EPA’s decision to ignore the court’s ruling and move forward with reapproving the pesticide. In re-approving dicamba, the EPA once again failed to weigh the true costs to farmers and the environment.”

Speaking to The Guardian, Nathan Donley, environmental health science director with the Center For Biological Diversity, blamed the EPA’s close ties with the pesticide industry for their leniency in “treating the pesticide industry not as regulated companies, but as clients”:¹⁹

“The pesticide industry has a ton of clout in the EPA’s pesticide office, a ton of ability to persuade people there, and the culture at the office is very in alliance with the pesticide industry.”

Dozens of farmers are suing Bayer and BASF for crop damage caused by dicamba. The first case that went to trial involved Bader Farms in Missouri, which alleged an “ecological disaster” was created to force farmers to buy GE dicamba-tolerant seeds. Bader Farms was awarded \$250 million in punitive damages and \$15 million in compensatory damages in the case.²⁰

Dicamba Linked to Cancer, Health Risks

The EPA has also downplayed health risks linked to dicamba, stating, "EPA has not identified any risks of concern regarding human health, including all population subgroups, or for occupational handlers. EPA has not identified cancer as a human health risk of dicamba."²¹

However, an analysis that evaluated dicamba use with a follow-up period of up to 20 years found an association between the herbicide and liver cancer and intrahepatic bile duct cancer in those with the highest levels of exposure.²² Donley stated in a news release:²³

"This sweeping study exposes the terrible human cost of the EPA's reckless decision to expand the use of dicamba. For the EPA to approve widespread use of this poison across much of the country without assuring its safety to people and the environment is an absolute indictment of the agency's persistent practice of rubber-stamping dangerous pesticides.

... Just as with glyphosate, we were falsely told that dicamba was completely safe for humans and there was nothing to worry about. With dicamba's ability to drift for miles, people in many areas of the country are now routinely forced to breathe in this dangerous pesticide."

Separate research also linked dicamba to colon and lung cancer²⁴ and Non-Hodgkin lymphoma,²⁵ along with an increased risk of hypothyroidism.²⁶

Regulatory Capture Is Putting Health and Environment at Risk

André Leu, former president of International Federation of Organic Agriculture Movements (IFOAM) and current international director of Regeneration International, is the author of "Poisoning Our Children: The Parent's Guide to the Myths of Safe Pesticides." He explains how the agricultural industry and global chemical industry have manipulated the system to control and suppress safety concerns.

Through this regulatory capture, regulators end up working for the industry's rather than the public's interest. Part and parcel of this process is the revolving door between

government and industry, where regulators are given high-paying industry jobs and industry executives get hired as senior managers in regulatory agencies such as the U.S. Environmental Protection Agency (EPA), where they start approving the products of their former company.

"That is really a form of corruption," Leu says, "But we see this everywhere around the world. In every country I look at, the **regulators are owned by the industry**." For its part, the EPA has a long history of siding with the pesticide industry. Not only has it stated that dicamba isn't harmful, but it's insisted the herbicide glyphosate "is not likely to be carcinogenic to humans."²⁷

Moreover, regulators make decisions on the safety of poisons in our food and environment based on data provided by the company selling the toxin – and most of these studies are confidential, so the public – as well as other scientists and researchers – cannot access them.

But as noted by Leu, when access to corporate studies is gained through freedom of information requests or legal discovery, most turn out to be of poor quality while others show a whole range of diseases and risks. When he reviewed data on pesticides, he concluded children, in particular, are at risk from exposure to even small amounts of these chemicals.

We can't wait for the EPA to take action to start protecting the most vulnerable among us. To minimize your exposure to pesticides – and help influence positive agricultural change in your local area – buy organically produced foods from small farmers as much as possible, and avoid using pesticides around your home and garden. You can also plant and grow your own food using organic methods.

Sources and References

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