

Though permission to use three variations of a controversial herbicide will expire at the end of this month, due to a court decision from the Ninth Circuit of the U.S. Court of Appeals and a subsequent order from the EPA, questions remain about the use of dicamba in the United States.

After the appeals court ruled in early June that the EPA's registration of three dicamba-based herbicides violated federal law, there were no clear steps as to what happened next to the existing product.

Brigit Rollins, staff attorney with the National Agricultural Law Center, said a cancel order, issued by the EPA days after the court decision, helped clear up some of the questions raised by not only the manufacturers of the pesticides, but also from distributors and farmers.

**NEWS08****:26****“....June 3, 2020”**

“They're allowed to do sort of different things depending on what their role is. For instance, registrants, so that would be like the companies that registered these pesticides in the first place, they can only distribute the pesticides now for the purposes of proper disposal. So that would be say shipping them for the purposes of proper disposal. They are no longer allowed to sell these pesticides as of June 3, 2020”

Dicamba is an herbicide used on genetically modified cotton and soybean crops, and has been heavily regulated in Arkansas after thousands of complaints of damage to non-tolerant plants. Though the EPA's order did help clarify some concerns on the court's ruling, Rollins says there are still questions remaining concerning the use of dicamba-based herbicides, including some about the Endangered Species Act, which the court did not weigh in on whether dicamba use also violated.

**NEWS09****:25****“...court decide”**

“A big question that we've seen...the Ninth Circuit did not reach that ESA argument so that argument or similar arguments about the ESA have been raised in other pesticide litigations. So I think that's sort of the unanswered question there. Will that issue ever be reached in a case and if it is, how will the court decide,” Rollins said.

According to Rollins, the registration on the three dicamba-based herbicides was initially set to expire at the end of the year. She says there is a possibility the same companies will try to re-register their products again in 2021, which could lead to another lawsuit.