



State of Oklahoma
Department of Agriculture, Food, and Forestry

J Kevin Stitt
Governor

Blayne Arthur
Secretary of Agriculture

February 11, 2022

The Honorable Michael S. Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue. NW
Washington, D.C. 20460

Dear Administrator Regan,

On behalf of the state of Oklahoma and our agriculture industry, I write to respectfully share concerns regarding the recent seven-year registration of Enlist One and Enlist Duo products by the Environmental Protection Agency. While we appreciate the work and time allocated to keep these tools available for some producers, the significant label restrictions and limitations make practical use of these products impossible for the cotton, soybean and corn producers in over half of Oklahoma's 77 counties.

With the limitations on this registration, approximately 70% of Oklahoma soybean acres can no longer utilize Enlist herbicides. Many of these acres are double-cropped, which also limits the use of Xtend technology due to the cutoff date. This is deeply concerning, as it takes a crucial tool away from so many producers and comes at a time when many have already made purchases of products they can no longer utilize.

Enlist One and Enlist Duo are critical crop protection tools used by our producers. This technology has been counted on by farmers to produce high-quality grain and fiber with the most efficient use of natural resources possible. In fact, many producers have already purchased and received product that cannot be used, creating waste and unnecessary expense. With supply-chain disruptions and limited availability of alternative varieties, changing technology so close to planting and ultimately continuing business for many of these farmers is not a simple or affordable option due to these restrictions. Furthermore, limiting availability of technology for producers creates an environment conducive to building resistance to weeds and pests, which is a long-term concern for stewards of the land and environment.

In addition to the added cost to the farmers, there are concerns with the ability of our agency to properly enforce these restrictions. First, the label includes language that will be virtually unenforceable. ODAFF recommends the use of precautionary language as an alternative. For instance, management practices such as reduced applications, residue tillage management, cover crops, or vegetative filter strips could be implemented to minimize runoff to sensitive areas. Additionally, there will certainly be an added cost to the State of Oklahoma, as the label restrictions will create additional responsibility to respond to complaints and enforce regulation to ensure proper use of these products.



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We understand that many of these county-level bans are a result of the EPA's concerns regarding the new Endangered Species Act (ESA) data, and specifically in Oklahoma, concerns about the American Burying Beetle (ABB). The eastern half of our state is considered a home to these beetles; a species down listed on the Federal List of Endangered and Threatened Wildlife from endangered to threatened in 2020. The Enlist ban appears to be based on the ABB habitat, but many of the counties included in the proposed ban fall outside of the beetle's critical habitat. Additionally, the EPA also references the Monarch butterfly and bees. The Monarch butterfly is not listed under the ESA and no bees found in Oklahoma are listed on the ESA list. This has drawn many questions about the data used to inform these restrictions.

Furthermore, Oklahoma is home to renowned entomologist, Dr. Wyatt Hoback, an Associate Professor in Entomology and Plant Pathology at Oklahoma State University, who is considered a preeminent expert on ABB but was not consulted on these label restrictions. Dr. Hoback has shared that he is not aware of any detriment that would be caused to the ABB by allowing the use of these herbicides. I would urge the EPA to consider *all* data available in regards to the impact of Enlist products on these species, as new or additional information may open opportunities to amend the registration and allow use in additional counties. Please utilize experts in the states and review the process by which the science is considered. Our agency and producers in our state would appreciate increased transparency regarding the justification for label restrictions and the data these decisions are based on.

Again, we appreciate the time and effort put into the registration of these products, but hope that more can be done to ensure the review and registration of these products is comprehensive and transparent so that technology can be utilized to the full extent possible to feed and clothe the world and also protect our land and water for future generations.

Thank you for your consideration and, if I can offer any information or be of assistance to the EPA in any way, please do not hesitate to contact me.

Sincerely,

Blayne Arthur

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Oklahoma Secretary of Agriculture