



STATE OF ARKANSAS
ASA HUTCHINSON
GOVERNOR

June 30, 2017

Mr. Wes Ward
Secretary
Arkansas Agriculture Department
#1 Natural Resources Drive
Little Rock, AR 72205

Mr. Terry Walker
Director
Arkansas Plant Board
Natural Resources Drive
Little Rock, AR 72205

**Re: Plant Board Emergency Rules – “Ban on the Sale and Use of Dicamba” and
“Pesticide Enforcement Response Regulation”**

Dear Secretary Ward and Director Walker:

On June 27, 2017, I received two proposed emergency rules from the Arkansas State Plant Board entitled “Ban on the Sale and Use of Dicamba” and “Pesticide Enforcement Response Regulation.”

Regarding the proposed “Ban on the Sale and Use of Dicamba” rule, I am concerned that more limited options were not fully debated and considered because of the need for quick action. I know the Plant Board also shares my concern that this action is being taken in the middle of a growing season, but the volume of complaints do justify emergency action.

Because I consider the Plant Board to have a significant expertise in agriculture and crop science, I give great deference to its findings and conclusions. As a result, I am approving the submittal of the dicamba emergency rule to the Legislative Council for its review.

In addition to the approval of the rule submission, I would like your departments to convene a task force to review the dicamba technology, investigate the current problems with its use and application, and make longer term recommendations for the future. This debate will continue into future planting seasons, and Arkansas needs a long-term solution.

The second proposal, entitled "Pesticide Enforcement Response Regulation," has been submitted to my office as both an emergency rule as well as a regularly proposed rule so that it will be allowed to stay in effect beyond the 120-day period of an emergency rule.

During the 2017 legislative session, the Arkansas General Assembly passed Act 778 which amended the Arkansas Plant Act of 1917, allowing the Plant Board to assess a civil penalty greater than one thousand dollars (\$1,000) but not more than twenty-five thousand dollars (\$25,000) for egregious violations. Egregious violations are defined as significant off-target crop damage occurring as a result of the application of dicamba or an auxin-containing herbicide or any new herbicide technology released after the effective date of Act 778. Unfortunately, Act 778 does not become effective until August 1, 2017.

The "Pesticide Enforcement Response Regulation" submitted by the Plant Board is in response to Act 778 and is an effort to make sure that the Board can utilize this authority granted to it by the legislature as soon as possible. As I have stated since January of this year, the Plant Board should have an adequate and an effective enforcement mechanism to deter the illegal application of chemicals that are a significant burden to our agricultural producers.

In conclusion, I approve the promulgation of the Plant Board's proposed rules, and by this letter, I am forwarding them to you for appropriate action.

Sincerely,

A handwritten signature in black ink, appearing to read "Asa Hutchinson", written over a large, stylized initial "A".

Asa Hutchinson