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Dicamba decision looms for governor; limit herbicide's use, Arkansas panel urges

By [Stephen Steed](#)

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PHOTO BY [STATON BREIDENTHAL](#)
Arkansas Democrat-Gazette/STATON BREIDENTHAL --11/21/16-- Gov. Asa Hutchinson (right) answers questions from the media Monday at the state Capitol after announcing the appointment of Kimberly O'Guinn (left) to the Public Service Commission.

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Gov. Asa Hutchinson will soon have to choose between the recommendations of his own Plant Board or the wishes of Monsanto, the St. Louis-based seed giant.

The issue is dicamba -- or, rather, the misuse of it.

Some farmers illegally sprayed the herbicide this summer, damaging thousands of acres of cotton, soybeans, fruits and vegetables in Arkansas and neighboring states. The federal

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Environmental Protection Agency served search warrants in Missouri. That state's largest peach farm has sued Monsanto. The mess hit rock bottom Oct. 27 with the fatal shooting of an Arkansas farmer.

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Monsanto has a new dicamba-based herbicide just recently approved for the market.

The Plant Board, a part of the state Department of Agriculture, has 16 members who represent the interests of every facet of Arkansas agriculture, including row crops, forestry, seed and herbicide dealers, livestock, aerial applicators and pest management. By unanimous vote in late November, the board said it wants to further restrict the use of dicamba.

A spokesman for Hutchinson said the governor has no timeline for his decision.

If Hutchinson accepts the Plant Board's recommendations, the introduction of Monsanto's new herbicide into Arkansas would be sharply curtailed. While the EPA has approved the new herbicide's label, states may tighten the regulations.

If the governor rejects the recommendations, the Monsanto product will enter the Arkansas market under the EPA label.

Some of the state's most influential agriculture groups -- including the Arkansas Farm Bureau, Arkansas Agricultural Council and the Seed Dealers Association of Arkansas -- have sided with the Plant Board. The Arkansas State Chamber of Commerce recently wrote a letter supporting Monsanto.

It is rare, if not unprecedented, for a governor to concern himself so directly with a herbicide.

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Shortly after taking office in January 2015, Hutchinson signed an executive order requiring state agencies and boards under his control to submit new or revised rules and regulations to his office for approval. In the past, such measures went directly to the Legislative Council, a body of lawmakers that conducts the Legislature's business when it is not in session.

Hutchinson's order said it was his policy not to allow rules and regulations that burden businesses.

Jay Barth, a political science professor at Hendrix College in Conway, said Hutchinson's order, while adding another layer of government study to an issue, "has worked out rather smoothly" with revisions made by state agencies.

"With, say, the state Health Department, you have a clear Cabinet-level leader that the governor can liaison with," Barth said. "But the ag department is relatively new, and its issues and concerns are spread across so many panels and commissions. That probably makes it more permeable for outside interests to lobby on an issue."

Rep. Dan Douglas, R-Bentonville, chairman of the House Agriculture, Forestry and Economic Development Committee, said recently that he believes Hutchinson will side with the Plant Board and the many farmers and other agriculture producers who support the restrictions.

"We've had a lot of input from the Plant Board, a lot of information from farmers, other growers

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and producers, and victims [of illegal spraying]," said Douglas, a rancher in Benton County. "I think he'll have a lot of good, supporting documentation to back up his decision."

Monsanto says any restrictions on its product would limit the technology available to farmers and that the problems this summer were caused by scofflaws. The company said it worked hard to make sure that farmers planting dicamba-tolerant crops this year knew there wasn't yet a herbicide for in-crop use.

Douglas also said he supports increasing the current maximum fine of \$1,000 for illegal spraying to as much as \$25,000. "A farmer would weigh that \$1,000 fine -- if he's caught -- against losing maybe a \$50,000 crop and, to a farmer thinking about acting illegally, it would be a no-brainer," he said.

Any increase in fines will be up to the Arkansas General Assembly, which next convenes in regular session on Jan. 9.

NEW SEEDS, NO HERBICIDE

Monsanto spent years and millions of dollars developing new soybean and cotton traits, called Xtend, whose plants would be tolerant of dicamba, a readily available and relatively inexpensive weedkiller used for decades around the home and farm. Monsanto sales representatives also said the new traits would produce higher per-acre yields, no small matter to a farmer at a time of still-declining crop prices.

Dicamba is also highly volatile. When conditions are right (high temperature, high humidity, little or no wind), it can vaporize off leaves where it has been sprayed, lift into the air and damage or kill nearby crops, vegetables, fruits and ornamentals. It also is prone to drifting with the wind as it's being applied by sprayers.

Because of those problems, it is illegal under state and federal law to spray dicamba once crops are planted.

Arkansas farmers this year planted a few hundred thousand acres of the dicamba-tolerant soybeans and cotton -- all in the crossed-fingers hope that they wouldn't come up against pigweed, an invasive species that has grown resistant to most herbicides, including Monsanto's Roundup.

Monsanto began selling the new seeds before the EPA approved the new in-crop dicamba-based herbicide, touted by the company to be less volatile than other dicambas. (That approval didn't come until Nov. 9, deep into the harvest.)

When the pigweed showed up, farmers who planted the new Xtend crops had two options. They could disk up their crops or they could illegally spray existing, more volatile formulations of dicamba -- and put their neighbors' crops at risk.

Some farmers opted for the latter, and dicamba then lived up to its reputation. It drifted onto neighboring nonXtend crops, resulting in losses yet to be tallied across some 200,000 acres of farmland in Arkansas, Missouri, Tennessee and other states along the Mississippi River Delta.

"There's already been a murder," Douglas said. "This isn't playing-around stuff. This is serious. Farmers are in a tight market, and some are having trouble staying in business. While spraying dicamba might help one farmer, it might cause another farmer to lose a crop, a home or a business. We can't have that."

A FARMER IS KILLED

Mike Wallace, 55, of Monette in Craighead County lost more than some crops. He lost his life.

Wallace had filed complaints of crop damage with the Plant Board the past two growing seasons.

Late in the afternoon of Oct. 27, on the edge of a field just north of Leachville near the Arkansas-Missouri line, Wallace met with the farm manager of the farmer he thought was responsible for the damage. Wallace and Allan Curtis Jones, 26, of Arbyrd, Mo., reportedly exchanged words. The meeting turned physical, according to reports.

Jones, who was armed, shot the unarmed Wallace when Wallace grabbed Jones' arm and spun him around, according to police reports that cited a witness, a cousin of Jones.