

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
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As Engrossed: S3/18/19 H3/26/19

A Bill

SENATE BILL 550

By: Senator G. Stubblefield

By: Representative Bentley

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING LIQUID LIVESTOCK
LITTER UTILIZATION; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING LIQUID
LIVESTOCK LITTER UTILIZATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 8-4-203(n), concerning an application related to a permit for a liquid animal waste system, is repealed.

~~(n)(1) When an application for the issuance of a new permit for a liquid animal waste system or a modification of an existing permit for a liquid animal waste system is filed, the department shall give notice of its proposed action in accordance with subdivision (e)(1)(A) of this section within one hundred twenty (120) days of receipt of the application.~~

~~(2)(A) At the conclusion of the public comment period, the department shall announce in writing within sixty (60) days its final decision regarding the permit application in accordance with subdivision (e)(2)(A) of this section.~~

~~(B) For a modification that the department considers to be minor in nature, the department shall make its final decision regarding the permit application within thirty (30) days after receipt of the application.~~

~~(3) An applicant may waive in writing to the department the timeliness requirement under subdivisions (n)(1) and (2) of this section.~~



SECTION 2. Arkansas Code § 15-20-1103, concerning definitions used in the Arkansas Soil Nutrient Application and Poultry Litter Utilization Act, is amended to add additional subdivisions to read as follows:

(19) "Confined livestock feeding operation" means a lot or facility where livestock, fowl, or other animals have been, are, or will be stabled or confined and fed or maintained and where crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over significant portions of the lot or facility;

(20) "Liquid livestock litter management plan" means a plan for the utilization of litter generated by a liquid livestock litter management system; and

(21) "Liquid livestock litter management system" means a system used for the collection, storage, distribution, or disposal of livestock litter in liquid form that is generated by a confined livestock feeding operation.

SECTION 3. Arkansas Code § 15-20-1114 is amended to read as follows:

15-20-1114. No conflict with Arkansas Water and Air Pollution Control Act.

~~(a)(1) This subchapter shall not supersede the requirement that liquid animal waste management systems comply with the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or regulations adopted under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.~~

~~(2) This subchapter shall not supersede the requirements of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., for waste disposal systems utilizing land application as a part of the waste disposal process.~~

(b) Except as provided in subsection (a) of this section, nutrient and litter management activities conducted in compliance with this subchapter shall not be subject to regulation under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or regulations adopted under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

(c)(1) The Arkansas Natural Resources Commission may determine that certain nutrient and litter-management activities regulated under the provisions of this subchapter are not in compliance with the subchapter and thus constitute placing sewage, industrial waste, or other wastes in a location where it is likely to cause pollution to the waters within the

state.

(2) The nutrient and litter-management activities so determined shall be subject to regulation under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and regulations adopted under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

(3) Upon a request by the commission, the Arkansas Department of Environmental Quality shall provide technical assistance to the commission related to permitting a facility affected by subdivision (c)(1) of this section.

SECTION 4. Arkansas Code Title 15, Chapter 20, Subchapter 11, is amended to add additional sections to read as follows:

15-20-1115. Liquid Livestock Litter Utilization.

(a)(1)(A) The Arkansas Natural Resources Commission shall establish public notification requirements, qualifications, standards, and procedures for the review of a nutrient management plan and the issuance of permits for a liquid livestock litter management system.

(B) This section does not supersede or otherwise adversely impact the authority delegated to the Arkansas Department of Environmental Quality by the United States Environmental Protection Agency to administer the National Pollution Discharge Elimination System permit program.

(2) A confined livestock feeding operation utilizing a liquid livestock litter management system shall develop and implement a liquid livestock litter management plan that is acceptable to the commission.

(3) A person that intends to develop a liquid livestock litter management plan shall obtain certification from the commission under § 15-20-1004 before developing the liquid livestock litter management plan.

(4) The liquid livestock litter management plan is a part of the nutrient management plan of the confined livestock feeding operation.

(b) The liquid livestock litter management plan shall include without limitation a:

(1) Periodic liquid livestock litter nutrient content analysis component;

(2) Liquid livestock litter utilization component providing for the proper utilization of the litter produced, including without limitation provisions ensuring that:

(A) Land application is at a rate not to exceed the protective rates determined by the Arkansas Phosphorus Index; and

(B) Litter not applied to land is converted to a nonnutrient use or other use acceptable to the commission; and

(3) Records component requiring the owner of the confined livestock feeding operation to maintain sufficient records at the site of the confined livestock feeding operation to determine liquid livestock litter utilization and compliance with the other components of the liquid livestock litter management plan.

(c)(1) Before approval of a liquid livestock litter management system permit by the commission, the board of directors of the county conservation district where the majority of the land to which the liquid livestock litter management plan applies is located shall have the opportunity to review and approve or disapprove the liquid livestock litter management plan.

(2) A person requesting to implement a liquid livestock litter management plan may appeal the board's disapproval of the liquid livestock litter management plan or a provision of the liquid livestock litter management plan to the Executive Director of the Arkansas Natural Resources Commission.

(d) An approved liquid livestock litter management plan shall not be implemented until the commission has:

(1) Reviewed and approved the nutrient management plan; and

(2) Issued a liquid livestock litter management system permit.

(e) The commission shall promulgate rules necessary to implement this section.

15-20-1116. Liquid livestock litter management system permits.

(a)(1) When an application for the issuance of a new permit for a liquid livestock litter management system or a modification to an existing permit for a liquid livestock litter management system is filed, the Arkansas Natural Resources Commission shall give notice of its proposed action within one hundred twenty (120) days of receipt of the application.

(2)(A) At the conclusion of the public comment period, the commission shall announce in writing within sixty (60) days its final decision regarding the permit application.

(B) For a modification that the commission considers to be

minor, the commission shall make its final decision regarding the permit application within thirty (30) days after receipt of the application.

(3) An applicant may waive in writing to the commission the timeliness requirements under this section.

(b)(1) The commission shall begin accepting applications under subsection (a) of this section no later than January 1, 2021.

(2) On or before January 1, 2021, all active permits issued by the department shall be transferred to the commission without modification.

(3) An application submitted to the department prior to January 1, 2021, shall remain with the department until the permit is approved or disapproved.

(c) The commission shall promulgate rules necessary to implement this section.

SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY.

(a) The Arkansas Natural Resources Commission shall promulgate rules necessary to implement §§ 15-20-1115 and 15-20-1116 that shall, at a minimum, maintain the current standards and requirements of Arkansas Pollution Control and Ecology Commission Regulation No. 5 Liquid Animal Waste Systems, including without limitation the following chapters of Regulation No. 5:

(1) Chapter 1: Title, Purpose and Applicability;

(2) Chapter 2: Definitions;

(3) Chapter 3: Permit, Applications and Procedures;

(4) Chapter 4: Technical Requirements;

(5) Chapter 5: Facility Construction Certification;

(6) Chapter 6: Alternative Permitting and Waste Management;

(7) Chapter 7: Facility Closure;

(8) Chapter 8: Administrative Procedures; and

(9) Chapter 9: Watershed Specific Regulations.

(b)(1) When adopting the initial rules to implement §§ 15-20-1115 and 15-20-1116, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(A) On or before July 1, 2020; or

(B) If approval under § 10-3-309 has not occurred by July 1, 2020, as soon as practicable after approval under § 10-3-309.

(2) The commission shall file the proposed rule with the

Legislative Council under § 10-3-309(c) sufficiently in advance of July 1, 2020, so that the Legislative Council may consider the rule for approval before July 1, 2020.

(c) If Region 6 of the United States Environmental Protection Agency determines that the final rules promulgated by the commission to implement this act either supersede or otherwise adversely impact the delegated authority of the Arkansas Department of Environmental Quality to administer the National Pollution Discharge Elimination System permit program as delineated in the Memorandum of Agreement between the department and Region 6 of the United States Environmental Protection Agency, as executed on October 31, 1986, and as amended in January 1995, the rules and this act, after all legal remedies have been unsuccessful by the Attorney General, will be considered void, and the authority to administer "no discharge permits" associated with the generation, storage, handling, and land application of liquid animal litter will revert back to the department.

/s/G. Stubblefield