

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

As Engrossed: S3/18/19 H3/26/19

# A Bill

SENATE BILL 550

5 By: Senator G. Stubblefield  
6 *By: Representative Bentley*  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING LIQUID LIVESTOCK  
10 LITTER UTILIZATION; AND FOR OTHER PURPOSES.  
11

### Subtitle

14 TO AMEND THE LAW REGARDING LIQUID  
15 LIVESTOCK LITTER UTILIZATION.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code § 8-4-203(n), concerning an application  
21 related to a permit for a liquid animal waste system, is repealed.

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

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

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

34 ~~(3) An applicant may waive in writing to the department the~~  
35 ~~timeliness requirement under subdivisions (n)(1) and (2) of this section.~~  
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1 SECTION 2. Arkansas Code § 15-20-1103, concerning definitions used in  
2 the Arkansas Soil Nutrient Application and Poultry Litter Utilization Act, is  
3 amended to add additional subdivisions to read as follows:

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

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

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

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16 SECTION 3. Arkansas Code § 15-20-1114 is amended to read as follows:  
17 15-20-1114. No conflict with Arkansas Water and Air Pollution Control  
18 Act.

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

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

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

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

1 state.

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

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

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

13 15-20-1115. Liquid Livestock Litter Utilization.

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

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

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

25 (3) A person that intends to develop a liquid livestock litter  
26 management plan shall obtain certification from the commission under § 15-20-  
27 1004 before developing the liquid livestock litter management plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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27 15-20-1116. Liquid livestock litter management system permits.

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

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

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

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

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

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

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

9 (3) An application submitted to the department prior to January  
10 1, 2021, shall remain with the department until the permit is approved or  
11 disapproved.

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

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15 SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY.

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

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

22 (2) Chapter 2: Definitions;

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

24 (4) Chapter 4: Technical Requirements;

25 (5) Chapter 5: Facility Construction Certification;

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

27 (7) Chapter 7: Facility Closure;

28 (8) Chapter 8: Administrative Procedures; and

29 (9) Chapter 9: Watershed Specific Regulations.

30 (b)(1) When adopting the initial rules to implement §§ 15-20-1115 and  
31 15-20-1116, the final rule shall be filed with the Secretary of State for  
32 adoption under § 25-15-204(f):

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

34 (B) If approval under § 10-3-309 has not occurred by July  
35 1, 2020, as soon as practicable after approval under § 10-3-309.

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

1 Legislative Council under § 10-3-309(c) sufficiently in advance of July 1,  
2 2020, so that the Legislative Council may consider the rule for approval  
3 before July 1, 2020.

4 (c) If Region 6 of the United States Environmental Protection Agency  
5 determines that the final rules promulgated by the commission to implement  
6 this act either supersede or otherwise adversely impact the delegated  
7 authority of the Arkansas Department of Environmental Quality to administer  
8 the National Pollution Discharge Elimination System permit program as  
9 delineated in the Memorandum of Agreement between the department and Region 6  
10 of the United States Environmental Protection Agency, as executed on October  
11 31, 1986, and as amended in January 1995, the rules and this act, after all  
12 legal remedies have been unsuccessful by the Attorney General, will be  
13 considered void, and the authority to administer "no discharge permits"  
14 associated with the generation, storage, handling, and land application of  
15 liquid animal litter will revert back to the department.

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18 /s/G. Stubblefield  
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