

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/17/15
A Bill

HOUSE BILL 1701

5 By: Representative Sabin
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7 **For An Act To Be Entitled**

8 AN ACT TO REQUIRE THE ARKANSAS DEPARTMENT OF
9 ENVIRONMENTAL QUALITY TO CREATE A LIST OF ALL PERMITS
10 ISSUED BY THE DEPARTMENT; TO REQUIRE THE ARKANSAS
11 DEPARTMENT OF ENVIRONMENTAL QUALITY TO DETERMINE
12 WHICH DEPARTMENT PERMITS REQUIRE ENHANCED NOTICE; AND
13 FOR OTHER PURPOSES.
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16 **Subtitle**

17 TO REQUIRE THE ARKANSAS DEPARTMENT OF
18 ENVIRONMENTAL QUALITY TO CREATE A LIST OF
19 ALL PERMITS ISSUED BY THE DEPARTMENT.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. DO NOT CODIFY. (a) The General Assembly finds that a
25 need exists to enhance notice requirements for new environmental permits.

26 (b) This act enhances notice requirements for new environmental
27 permits to those who need it most, including without limitation adjoining
28 landowners and local government entities.
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30 SECTION 2. Arkansas Code Title 8, Chapter 1, Subchapter 1, is amended
31 to add an additional section to read as follows:

32 8-1-108. Permit list – Notice.

33 (a) The Arkansas Department of Environmental Quality shall prepare a
34 list of each category of permit the department issues.

35 (b) The department shall petition the Arkansas Pollution Control and
36 Ecology Commission to initiate rulemaking to specify which of the permit



1 categories listed under subsection (a) of this section require enhanced
2 notice.

3 (c)(1) Enhanced notice under subsection (b) is required for new
4 environmental permits that may impact the local physical environment,
5 including without limitation:

6 (A) General or individual permits for Concentrated Animal
7 Feeding Operations;

8 (B) Hazardous waste treatment, storage, and disposal
9 facilities;

10 (C) Major individual permits issued by the department
11 under authority delegated under Title V of the Clean Air Act, 42 U.S.C. §
12 7401 et seq.;

13 (D) Major individual permits issued by the department
14 under the authority delegated under the national pollution discharge
15 elimination system;

16 (E) Permits for confined animal feeding operations issued
17 under Arkansas law;

18 (F) Solid waste transfer, processing, or disposal
19 facilities; and

20 (G) Surface mines.

21 (2) Enhanced notice shall not be required for permit renewals,
22 modifications that do not result in new or expanded impact to the local
23 physical environment, or permitting schemes with minimal impact on the local
24 environment, including without limitation:

25 (A) Permits to conduct a one-time land application;

26 (B) Permits to operate carwashes, including without
27 limitation indirect discharge permits and septic systems; or

28 (C) Stormwater general permits.

29 (d)(1) Enhanced notice under this section shall be provided by a
30 facility required to provide enhanced notice under this section by certified
31 mail, return receipt requested, to the following people:

32 (A) Each property owner adjacent to the facility
33 required to provide enhanced notice under this section;

34 (B) The county judge of the county where the
35 facility required to provide enhanced notice under this section is located;

36 (C) The mayor of an incorporated municipality within

1 ten (10) miles of the facility required to provide enhanced notice under this
2 section;

3 (D) The superintendent of the school district where
4 the facility required to provide enhanced notice under this section is
5 located; and

6 (E) The principal contractor for a public drinking
7 water treatment facility within ten (10) miles of the facility required to
8 provide enhanced notice.

9 (2) A facility required to provide enhanced notice under this
10 section shall retain the return receipts under subdivision (d)(1) of this
11 section for the active life of the permit.

12 (3)(A) The department shall provide the contents of the written
13 public notice distributed by the facility required to provide enhanced notice
14 under this section in a form letter made available to the facility.

15 (B) The form letter shall include without limitation the
16 following:

17 (i) Notice of the proposed facility required to
18 provide enhanced notice under this section, including the address of the
19 facility site and the name of the facility;

20 (ii) An explanation of the thirty-day public comment
21 period and the right to comment;

22 (iii) The telephone number of a person to contact at
23 department with questions; and

24 (iv) Directions to the department's website,
25 including directions regarding how an interested party may submit his or her
26 name to receive electronic notification of notices of intent for coverage
27 under the permit for the facility required to provide enhanced notice under
28 this section.

29 (4) A facility required to provide enhanced notice under this
30 section shall retain the certified mail, return receipt number of a letter
31 sent under this section for the active life of the permit.

32 (5)(A) The facility required to provide enhanced notice under
33 this section shall post a sign measuring at least two feet by three feet (2'
34 x 3') on a public road nearest the entrance to the site of the facility.

35 (B) The sign shall be clearly legible and conspicuous in
36 such a manner that a passersby can clearly see from the public road the

1 requirements set forth for notice under this section.

2 (C) The department shall prescribe the minimum
3 requirements of the sign required under this subdivision (d)(6) which shall
4 contain without limitation the same information the department requires the
5 facility required to provide enhanced notice under this section to publish
6 under subdivision (d)(5) of this section.

7 (D)(i) The facility required to provide enhanced notice
8 under this section shall post the sign before submitting a notice of intent.

9 (ii) The sign shall remain in place until thirty (30) days
10 following approval by the department of the notice of intent and nutrient
11 management plan.

12 (6)(A) A facility required to provide enhanced notice under this
13 section shall certify compliance with the public notification requirements
14 under this section when submitting the notice of intent and the nutrient
15 management plan to the department.

16 (B) The certification required under subdivision (d)(6)(A)
17 of this section shall include a statement that the facility completed the
18 notice requirements under this section within the thirty (30) days preceding
19 submission of the application to the department.

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