

**Hall of the House of Representatives**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

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**Subtitle of House Bill No. 2528**

"AN ACT TO PROTECT PRIVACY WITH REGARD TO NUTRIENT MANAGEMENT  
PROGRAM ENFORCEMENT."

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**Amendment No. 1 to House Bill No. 2528.**

Amend House Bill No. 2528 as originally introduced:

Add Representative Clemons as a cosponsor of the bill

AND

Page 1, delete lines 11 and 12 and substitute the following:  
"AND WATER CONSERVATION COMMISSION GIVE SEVENTY-TWO-HOUR NOTICE BEFORE  
ENTERING PRIVATE"

AND

Page 1, delete lines 24 through 31 and substitute the following:  
    "(a)(1) Agents of the Arkansas Soil and Water Conservation Commission shall have the power to enter on private property to determine compliance with this subchapter.  
        ~~(2)(A) If the entry is to a facility where poultry is regularly kept, entry~~ Entry shall not occur without prior notification of the owner, operator, or agent in charge of the property.  
        (B) Notice shall be given to the owner, operator, or agent in charge of the property at least twenty-four (24) seventy-two (72) hours before entry.  
    (3) Documentation of biosecurity measures taken and biosecurity"

AND

Page 1, line 36, delete "~~(4)(2)~~" and substitute "(4)"

AND

Immediately following SECTION 1, add additional sections to read as follows:  
    "SECTION 2. Arkansas Code § 15-20-1106 is amended to read as follows:  
    15-20-1106. Designated nutrient application. [Effective January 1, 2004.]



(a) It shall be a violation of this subchapter to apply designated nutrients to soils or associated crops within a nutrient surplus area unless the nutrient application is done in compliance with a nutrient management plan approved by the Arkansas Soil and Water Conservation Commission or at a protective rate established by the commission.

(b) Application of poultry litter to soils or associated crops on lands within a nutrient surplus area shall be done in accordance with a nutrient management plan or poultry litter management plan after January 1, 2007.

(c) After a soil test with nutrient application recommendations is obtained for lands within a nutrient surplus area, application of commercial fertilizer may continue in compliance with the protective rate after January 1, 2007.

(d) After a soil test with nutrient application recommendations is obtained for lands within a nutrient surplus area, the protective rate as indicated by the soil test shall constitute a permit to apply nutrients consistent with the protective rate.

~~(b)~~(e) Designated nutrient application within a nutrient surplus area shall be applied under time, place, and manner restrictions determined necessary by the commission to protect the soil fertility, crop vitality, and the waters within the state.

~~(e)~~~~(1)~~(f)(1) Except as provided in subsection ~~(e)~~(h) of this section, only a certified nutrient applicator may apply a nutrient application within a nutrient surplus area.

(2) In areas outside nutrient surplus areas, nutrient applicators may not be required to be certified.

~~(d)~~~~(1)~~(g)(1) Except as provided in subsection ~~(e)~~(h) of this section, nutrient application within a nutrient surplus area shall be documented by the nutrient applicator in a method acceptable to the commission.

(2)(A) This documentation shall be maintained by the landowner and the nutrient applicator.

(B) The information collected in furtherance of this subchapter shall not be public record.

~~(e)~~~~(1)~~(h)(1) Designated nutrient application within a nutrient surplus area on residential lands of two and one-half (2 1/2) acres or less shall be applied at a rate not to exceed the protective rate and in a manner acceptable to the commission and may be performed by the landowner or resident.

(2) In such instances, the landowner or resident shall not be required to be a certified nutrient applicator but shall maintain the required documentation.

SECTION 3. Arkansas Code § 15-20-1107 is amended to read as follows: 15-20-1107. Nutrient management plan. [Effective January 1, 2004.]

(a)(1) Nutrient management plans shall be approved by the board of directors of the conservation district where a majority of the land to which the plan applies is located.

(2) The person requesting a nutrient management plan may appeal its disapproval or any of its provisions to the Executive Director of the Arkansas Soil and Water Conservation Commission.

~~(a)~~(b) In considering the approval of a nutrient management plan, a conservation district board of directors and the Arkansas Soil and Water

Conservation Commission shall consider the plan's provision for:

- (1) Soil nutrient testing;
- (2) The level of nutrients contained in the nutrient source;
- (3) Nutrient application rates, including the methodology utilized in determining the rate;
- (4) Crops being grown, soil type, geology, hydrology, and other physical characteristics of land on which the nutrient will be applied;
- (5) The manner and timing of nutrient application;
- (6) The method for keeping application records contained in the plan; and
- (7) The qualifications of the person developing the plan.

~~(b)~~(c) If the land application of a designated nutrient within a nutrient surplus area is a part of a process regulated under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or other similar federal or state law and the permit contains conditions regulating the application of the designated nutrient acceptable to the commission, then the permit shall serve as the nutrient management plan.

(d) An approved plan shall constitute a permit to apply nutrients consistent with the plan.

SECTION 4. Arkansas Code § 15-20-1108 is amended to read as follows:  
15-20-1108. Poultry litter management plan. [Effective January 1, 2004.]

(a)(1) Poultry litter management plans shall be approved by the board of directors of the conservation district where a majority of the land to which the plan applies is located.

(2) The person requesting a poultry litter management plan may appeal its disapproval or any of its provisions to the Executive Director of the Arkansas Soil and Water Conservation Commission.

~~(a)(1)~~(b)(1) Poultry feeding operations within a surplus nutrient area shall develop and implement a poultry litter management plan acceptable to the Arkansas Soil and Water Conservation Commission before January 1, 2007.

(2) The person who develops the poultry litter management plan shall have obtained certification from the commission in planning.

(3) If the commission determines it to be beneficial, the poultry litter management plan may be a part of a nutrient management plan.

~~(b)~~(c) At a minimum, the poultry litter management plan shall contain a:

- (1) Periodic poultry litter nutrient content analysis component;
- (2) Poultry litter utilization component providing for the proper utilization of the litter produced, including provisions ensuring that:

(A) Land application within a nutrient surplus area is in accordance with a nutrient management plan or at a rate not to exceed the protective rate;

(B) Land application outside a nutrient surplus area is in a method and at a rate acceptable to the commission; and

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

(3) Records component that requires the owner of the poultry feeding operation to maintain sufficient records at the site of the poultry feeding operation to determine poultry litter utilization and compliance with

the other portions of the poultry litter management plan.

~~(e)~~(d) The commission may accept a plan or permit prepared to comply with federal law as a poultry litter management plan if the plan or permit substantially meets the requirements of this section.

(e) An approved plan shall constitute a permit to apply nutrients consistent with the plan.

AND

Page 2, delete line 21 and substitute the following:

"SECTION 5. Arkansas Code § 15-20-1112 is amended to read as follows:"

AND

Page 2, delete lines 23 through 29 and substitute the following:

"(a)(1) Agents of the Arkansas Soil and Water Conservation Commission or a conservation district may enter on private property to determine compliance with this subchapter.

~~(2)(A) If the entry is to a facility where poultry is regularly kept, entry~~ Entry shall not occur without prior notification of the owner.

(B) Notice shall be given to the owner, operator, or agent in charge of the property at least ~~twenty-four (24)~~ seventy-two (72) hours before entry.

(3) Documentation of biosecurity measures taken and"

AND

Page 2, line 34, delete "~~(4)~~(2)" and substitute "(4)"

AND

Page 3, delete lines 9 through 36 and substitute the following:

"SECTION 6. Arkansas Code § 15-20-1114(c), concerning the authority of the Arkansas Soil and Water Conservation Commission to determine that certain nutrient and litter-management activities constitute placing of sewage, industrial waste, or other wastes, is repealed:

~~(e)(1) The Arkansas Soil and Water Conservation 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 act.~~

SECTION 7. Arkansas Code Title 15, Chapter 20 is amended to add an additional subchapter to read as follows:"

AND

Page 4, delete lines 1 through 3 in their entirety

AND

Page 4, line 5, delete "15-20-1202." and substitute "15-20-1201."

AND

Page 4, delete lines 22 through 36 in their entirety

AND

Page 5, delete lines 1 through 36 in their entirety

AND

Page 6, delete lines 1 through 36 in their entirety

AND

Page 7, delete lines 1 through 36 in their entirety

AND

Page 8, delete lines 1 through 17 in their entirety

The Amendment was read \_\_\_\_\_

By: Representative Norton

MGF/JGH - 03-21-2005 10:58

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Chief Clerk