

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H3/5/03*  
**A Bill**

HOUSE BILL 1652

5 By: Representatives Scroggin, Agee, Berry, Gillespie, Borhauer, Edwards, Judy  
6 By: Senators Baker, Horn, Whitaker  
7  
8

9 **For An Act To Be Entitled**

10 ARKANSAS SOIL NUTRIENT MANAGEMENT PLANNER AND  
11 APPLICATOR CERTIFICATION ACT; AND FOR OTHER  
12 PURPOSES.  
13

14 **Subtitle**

15 AN ACT TO CERTIFY SOIL NUTRIENT  
16 MANAGEMENT PLANNERS AND SOIL NUTRIENT  
17 APPLICATORS  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Effective January 1, 2004, Arkansas Code Title 15, Chapter  
26 20, is amended to add an additional subchapter to read as follows:

27 15-20-1001. Title.

28 This subchapter shall be known and may be cited as the "Arkansas Soil  
29 Nutrient Management Planner and Applicator Certification Act".  
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31 15-20-1002. Legislative intent.

32 The Arkansas General Assembly finds that:

33 (1) proper application of nutrients is necessary for maximum soil  
34 fertility and proper plant growth;

35 (2) Failure to properly apply nutrients to soil may result in, a waste  
36 of a valuable resource and may negatively impact waters of the state;



1       (3) Persons developing soil nutrient plans or applying nutrients to  
2 soil should have certain knowledge, skills, and abilities to ensure the  
3 proper use of soil nutrients; and

4       (4) A certification system must be developed to determine that persons  
5 certified have the knowledge, skill, and abilities to properly develop  
6 nutrient management plans or properly apply soil nutrients.

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8       15-20-1003. Definitions.

9       As used in this subchapter:

10       (1) "Commission" means the Arkansas Soil and Water Conservation  
11 Commission;

12       (2) "Crop" means any vegetative cover;

13       (3) "Director" means the Executive Director of the Arkansas Soil and  
14 Water Conservation Commission;

15       (4) "Litter" means byproducts associated with the confinement of  
16 livestock, including excrement, feed wastes, bedding materials, composted  
17 carcasses, and any combinations thereof;

18       (5) "Livestock" means animals kept or raised for use or pleasure,  
19 especially farm animals kept for use and profit, including horses, cattle,  
20 swine, and poultry;

21       (6)(A) "Nutrient" means a substance or recognized plant nutrient,  
22 element or compound which is used or sold for its plant nutritive content or  
23 its claimed nutritive value.

24       (B) "Nutrient" includes litter, compost as fertilizer,  
25 commercially manufactured chemical or organic fertilizers, sewage sludge, or  
26 combinations thereof;

27       (7) "Nutrient applicator" means any person who applies nutrients to  
28 soil or associated crops;

29       (8) "Nutrient application" means the process by which humans apply  
30 nutrients to soil or associated crops;

31       (9) "Nutrient management plan" means any plan prepared to assist  
32 landowners and operators in the proper management and utilization of nutrient  
33 sources for maximum soil fertility and protection of the waters of the state;

34       (10) "Nutrient surplus area" means an area, under § 15-20-1104, in  
35 which the soil concentration of one (1) or more nutrients is so high or the  
36 physical characteristics of the soil or area is such that continued

1 application of the nutrient to the soil could negatively impact soil  
2 fertility and the waters of the state;

3 (11) "Person" means any natural person; and

4 (12) "Waters of the state" means all streams, lakes, marshes, ponds,  
5 watercourses, waterways, wells, springs, irrigation systems, drainage  
6 systems, and all other bodies or accumulations of water, surface and  
7 underground, natural or artificial, public or private, that are contained  
8 within, flow through, or border upon this state or any portion of the state.

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10 15-20-1004. Nutrient planner program.

11 (a) The Arkansas Soil and Water Conservation Commission shall develop  
12 and implement a nutrient management education, training, and certification  
13 program to certify the minimal competence and knowledge of a person preparing  
14 a nutrient management plan.

15 (b)(1) The planner certification program is voluntary for planners who  
16 develop plans outside nutrient surplus areas.

17 (2) The commission may not require nutrient planners to become  
18 certified unless the planner intends to develop plans for areas within  
19 nutrient surplus areas or the plans or the components of the plans are to be  
20 paid in whole or part by federal or state funds.

21 (c) The commission shall promulgate regulations that:

22 (1) Specify qualifications and standards for a person to be  
23 deemed competent in nutrient management plan preparation, and providing for  
24 the issuance of documentation of certification to the person;

25 (2) Specify the conditions under which a certification issued  
26 may be suspended or revoked;

27 (3) Establish fees to be paid by a person enrolling in the  
28 training and certification programs;

29 (4) Provide for the performance of other duties and the exercise  
30 of other powers by the Executive Director of the Arkansas Soil and Water  
31 Conservation Commission as may be necessary to provide for the training and  
32 certification of a person preparing nutrient management plans; and

33 (5) Give due consideration to relevant existing agricultural or  
34 other certification programs.

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36 15-20-1005. Nutrient applicator program.

1       (a) The Arkansas Soil and Water Conservation Commission shall develop  
2 and implement a nutrient applicator training and certification program to  
3 certify the competence and knowledge of a person making nutrient application,  
4 including the proper utilization of litter.

5       (b)(1) The applicator certification program is voluntary for  
6 applicators that apply nutrients outside nutrient surplus areas.

7       (2) The commission may not require nutrient applicators to  
8 become certified unless the applicator intends to apply nutrients within  
9 nutrient surplus areas or otherwise utilize litter produced within nutrient  
10 surplus areas.

11       (c) The commission shall promulgate regulations that:

12       (1) Specify the qualifications and standards for a person to be  
13 deemed competent in nutrient application, and provide for the issuance of  
14 documentation of certification to the person;

15       (2) Specify the conditions under which a certification issued  
16 may be suspended or revoked;

17       (3) Establish fees to be paid by persons enrolling in the  
18 training and certification programs; and

19       (4) Provide for the performance of other duties and the exercise  
20 of other powers by the Executive Director of the Arkansas Soil and Water  
21 Conservation Commission as may be necessary to provide for the training and  
22 certification of a person making nutrient application.

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24       15-20-1006. Procedure.

25       (a) The process for the development of regulations and the imposition  
26 of administrative penalties shall be conducted pursuant to the Arkansas  
27 Administrative Procedure Act, § 25-15-201, et seq.

28       (b) Any records collected by the commission in furtherance of this  
29 subchapter that contain information about a specific nutrient management plan  
30 or specific nutrient application shall not be made public record.

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32       15-20-1007. Disposition of fees and penalties.

33       (a) Fees paid and penalties collected shall be deposited in the  
34 Arkansas Water Development Fund and used in furtherance of the nutrient  
35 management program, including this subchapter.

36       (b) Fees collected shall be cash funds when received by the Treasurer

1 of the State and shall not be deposited or deemed to be a part of the State  
2 Treasury for the purposes of Arkansas Constitution, Article 5, § 29; Arkansas  
3 Constitution, Article 16, §12; Arkansas Constitution, Amendment 20; or any  
4 other constitutional or statutory provision.

5 15-20-1008. Administrative penalties.

6 (a) The Arkansas Soil and Water Conservation Commission may impose  
7 administrative penalties not to exceed one thousand dollars (\$1,000) per  
8 violation against any person violating this subchapter or regulations adopted  
9 pursuant to this subchapter.

10 (b) The commission or the director may issue subpoenas under Arkansas  
11 Code § 15-22-208.

12 (c) If a person against whom an administrative penalty has been  
13 imposed by the commission, as authorized in this section, fails to pay the  
14 penalty to the commission, the commission may file an action to collect the  
15 administrative penalty in the circuit court of the county in which the person  
16 resides.

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18 15-20-909. Criminal penalties.

19 (a) It shall be a violation of this subchapter for any person to hold himself  
20 or herself out as being certified under this subchapter if the person is not  
21 so certified, or for a person to enter into a contract requiring certified  
22 nutrient planning or certified nutrient application unless the person holds a  
23 certification under this subchapter.

24 (b)(1) In addition to administrative penalties, a violation of  
25 subsection(a) of this section is a Class A misdemeanor.

26 (2) Any person who pleads guilty or nolo contendere to or is  
27 found guilty of a Class A misdemeanor for violation of subsection(a) of this  
28 section, and who continues to engage in the behavior or activity giving rise  
29 to the violation, shall be guilty of a Class D felony for the second or any  
30 subsequent offense.

31 (3) Any law enforcement officer of this state or any political  
32 subdivision of this state may arrest persons described in this section.

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34 */s/ Scroggin, et al*

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