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	As Engrossed: H3/5/03 H3/13/03 H3/19/03		
2	84th General Assembly	A Bill		
3	Regular Session, 2003		HOUSE BILL	1652
4				
5	By: Representatives Scrogg	gin, Agee, Berry, Gillespie, Borhauer, Edwards, Judy		
6	By: Senators Baker, Horn,	Whitaker		
7				
8				
9		For An Act To Be Entitled		
10		AS SOIL NUTRIENT MANAGEMENT PLANNER AND		
11		ATOR CERTIFICATION ACT; AND FOR OTHER		
12	PURPOS	ES.		
13				
14		Subtitle		
15		ACT TO CERTIFY SOIL NUTRIENT		
16		AGEMENT PLANNERS AND SOIL NUTRIENT		
17	APP	LICATORS		
18				
19				
20				
21				
22 23		GENERAL ASSEMBLY OF THE STATE OF ARKANS	249.	
23 24	DE II ENACIED DI INE	GENERAL ASSEMBLI OF THE STATE OF ARRAN	)A5:	
24 25	SECTION 1 Ef	fective January 1, 2004, Arkansas Code 1	Fitle 15 Chan	tor
26		d an additional subchapter to read as fo	-	LEI
27	15-20-1001. T:	-	/110000.	
28		r shall be known and may be cited as the	e "Arkansas So	il
29		Planner and Applicator Certification Act		
30				
31	15-20-1002. Le	egislative intent.		
32	The Arkansas Ge	eneral Assembly finds that:		
33	(1) proper app	plication of nutrients is necessary for	maximum soil	
34	fertility and proper			
35	<u>(2)</u> Failure to	o properly apply nutrients to soil may a	result in, a w	aste
36	of a valuable resourd	ce and may negatively impact waters with	hin 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.		
7			
8	<u>15-20-1003. Definitions.</u>		
9	As used in this subchapter:		
10	(1) "Commission" means the Arkansas Soil and Water Conservation		
11	<u>Commission;</u>		
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 within the		
34	<u>state;</u>		
35	(10) "Nutrient surplus area" means: the Illinois River watershed,		
36	included within Benton, Washington, and Crawford counties; the Spavinaw Creek		

## 02202003MGF1336.CDW097

As Engrossed: H3/5/03 H3/13/03 H3/19/03

1	watershed, included within Benton County; the Honey Creek watershed, included
2	within Benton County; the Little Sugar Creek watershed, included within
3	Benton County; the upper Arkansas River watershed which includes Lee Creek
4	within Crawford and Washington counties, and Massard Creek within Sebastian
5	County; the Poteau River watershed, included within Scott, Sebastian, and
6	Polk counties; the Mountain Fork of the Little River watershed, included
7	within Polk County; and the upper White River watershed above its confluence
8	with the Buffalo River, included within Benton, Carroll, Washington, Madison,
9	Franklin, Newton, Searcy, Marion, and Boone counties. No additional areas may
10	be added unless the areas are added as nutrient surplus areas pursuant to
11	Arkansas Code Title 15, Chapter 20, Subchapter 11;
12	(11) "Person" means any natural person; and
13	(12) "Waters within the state" means all streams, lakes, marshes,
14	ponds, watercourses, waterways, wells, springs, irrigation systems, drainage
15	systems, and all other bodies or accumulations of water, surface and
16	underground, natural or artificial, public or private, that are contained
17	within, flow through, or border upon this state or any portion of the state.
18	
18 19	15-20-1004. Nutrient planner program.
	<u>15-20-1004. Nutrient planner program.</u> (a) The Arkansas Soil and Water Conservation Commission shall develop
19	
19 20	(a) The Arkansas Soil and Water Conservation Commission shall develop
19 20 21	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification
19 20 21 22	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing
19 20 21 22 23	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing <u>a nutrient management plan</u> .
19 20 21 22 23 24	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who
19 20 21 22 23 24 25	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who develop plans outside nutrient surplus areas.
19 20 21 22 23 24 25 26	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who develop plans outside nutrient surplus areas. (2) The commission may not require nutrient planners to become
19 20 21 22 23 24 25 26 27	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who develop plans outside nutrient surplus areas. (2) The commission may not require nutrient planners to become certified unless the planner intends to develop plans for areas within
19 20 21 22 23 24 25 26 27 28	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who develop plans outside nutrient surplus areas. (2) The commission may not require nutrient planners to become certified unless the planner intends to develop plans for areas within nutrient surplus areas or the plans or the components of the plans are to be
19 20 21 22 23 24 25 26 27 28 29	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who develop plans outside nutrient surplus areas. (2) The commission may not require nutrient planners to become certified unless the planner intends to develop plans for areas within nutrient surplus areas or the plans or the components of the plans are to be paid in whole or part by federal or state funds.
19 20 21 22 23 24 25 26 27 28 29 30	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who develop plans outside nutrient surplus areas. (2) The commission may not require nutrient planners to become certified unless the planner intends to develop plans for areas within nutrient surplus areas or the plans or the components of the plans are to be paid in whole or part by federal or state funds. (c) The commission shall promulgate regulations that:
19 20 21 22 23 24 25 26 27 28 29 30 31	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who develop plans outside nutrient surplus areas. (2) The commission may not require nutrient planners to become certified unless the planner intends to develop plans for areas within nutrient surplus areas or the plans or the components of the plans are to be paid in whole or part by federal or state funds. (c) The commission shall promulgate regulations that: (1) Specify qualifications and standards for a person to be
19 20 21 22 23 24 25 26 27 28 29 30 31 32	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who develop plans outside nutrient surplus areas. (2) The commission may not require nutrient planners to become certified unless the planner intends to develop plans for areas within nutrient surplus areas or the plans or the components of the plans are to be paid in whole or part by federal or state funds. (c) The commission shall promulgate regulations that: (1) Specify qualifications and standards for a person to be deemed competent in nutrient management plan preparation, and providing for
<ol> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> <li>28</li> <li>29</li> <li>30</li> <li>31</li> <li>32</li> <li>33</li> </ol>	(a) The Arkansas Soil and Water Conservation Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan. (b)(1) The planner certification program is voluntary for planners who develop plans outside nutrient surplus areas. (2) The commission may not require nutrient planners to become certified unless the planner intends to develop plans for areas within nutrient surplus areas or the plans or the components of the plans are to be paid in whole or part by federal or state funds. (1) Specify qualifications and standards for a person to be deemed competent in nutrient management plan preparation, and providing for the issuance of documentation of certification to the person;

## As Engrossed: H3/5/03 H3/13/03 H3/19/03

1	training and certification programs;
2	(4) Provide for the performance of other duties and the exercise
3	of other powers by the Executive Director of the Arkansas Soil and Water
4	Conservation Commission as may be necessary to provide for the training and
5	certification of a person preparing nutrient management plans; and
6	(5) Give due consideration to relevant existing agricultural or
7	other certification programs.
8	
9	15-20-1005. Nutrient applicator program.
10	(a) The Arkansas Soil and Water Conservation Commission shall develop
11	and implement a nutrient applicator training and certification program to
12	certify the competence and knowledge of a person making nutrient application,
13	including the proper utilization of litter.
14	(b)(1) The applicator certification program is voluntary for
15	applicators that apply nutrients outside nutrient surplus areas.
16	(2) The commission may not require nutrient applicators to
17	become certified unless the applicator intends to apply nutrients within
18	nutrient surplus areas or otherwise utilize litter produced within nutrient
19	<u>surplus areas.</u>
20	(c) The commission shall promulgate regulations that:
21	(1) Specify the qualifications and standards for a person to be
22	deemed competent in nutrient application, and provide for the issuance of
23	documentation of certification to the person;
24	(2) Specify the conditions under which a certification issued
25	<u>may be suspended or revoked;</u>
26	(3) Establish fees to be paid by persons enrolling in the
27	training and certification programs; and
28	(4) Provide for the performance of other duties and the exercise
29	of other powers by the Executive Director of the Arkansas Soil and Water
30	Conservation Commission as may be necessary to provide for the training and
31	certification of a person making nutrient application.
32	
33	<u>15-20-1006. Procedure.</u>
34	(a) The process for the development of regulations and the imposition
35	of administrative penalties shall be conducted pursuant to the Arkansas
36	Administrative Procedure Act, § 25-15-201, et seq.

As Engrossed: H3/5/03 H3/13/03 H3/19/03

HB1652

1	(b) Any records collected by the commission in furtherance of this
2	subchapter that contain information about a specific nutrient management plan
3	or specific nutrient application shall not be made public record.
4	
5	15-20-1007. Disposition of fees and penalties.
6	(a) Fees paid and penalties collected shall be deposited in the
7	Arkansas Water Development Fund and used in furtherance of the nutrient
8	management program, including this subchapter.
9	(b) Fees collected shall be cash funds when received by the Treasurer
10	of the State and shall not be deposited or deemed to be a part of the State
11	Treasury for the purposes of Arkansas Constitution, Article 5, § 29; Arkansas
12	Constitution, Article 16, §12; Arkansas Constitution, Amendment 20; or any
13	other constitutional or statutory provision.
14	15-20-1008. Administrative penalties.
15	(a) The Arkansas Soil and Water Conservation Commission may impose
16	administrative penalties not to exceed one thousand dollars (\$1,000) per
17	violation against any person violating this subchapter or regulations adopted
18	pursuant to this subchapter.
19	(b) The commission or the director may issue subpoenas under Arkansas
20	<u>Code § 15-22-208.</u>
21	(c) If a person against whom an administrative penalty has been
22	imposed by the commission, as authorized in this section, fails to pay the
23	penalty to the commission, the commission may file an action to collect the
24	administrative penalty in the circuit court of the county in which the person
25	resides.
26	
27	/s/ Scroggin, et al
28	
29	
30	
31	
32	
33	
34	
35	
36	