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4

As Engrossed: S3/18/19

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

13 TO AMEND THE LAW REGARDING LIQUID
14 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21 related to a permit for a liquid animal waste system, is repealed.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 confined livestock feeding operation utilizing a liquid
15 livestock litter management system shall develop and implement a liquid
16 livestock litter management plan that is acceptable to the Arkansas Natural
17 Resources Commission.

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

21 (3) The liquid livestock litter management plan is a part of the
22 nutrient management plan of the confined livestock feeding operation.

23 (b) The liquid livestock litter management plan shall include without
24 limitation a:

25 (1) Periodic liquid livestock litter nutrient content analysis
26 component;

27 (2) Liquid livestock litter utilization component providing for
28 the proper utilization of the litter produced, including without limitation
29 provisions ensuring that:

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

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

34 (3) Records component requiring the owner of the confined
35 livestock feeding operation to maintain sufficient records at the site of the
36 confined livestock feeding operation to determine liquid livestock litter

1 utilization and compliance with the other components of the liquid livestock
2 litter management plan.

3 (c)(1) A liquid livestock litter management plan is subject to
4 approval by the board of directors of the conservation district where the
5 majority of the land to which the liquid livestock litter management plan
6 applies is located.

7 (2) A person requesting to implement a liquid livestock litter
8 management plan may appeal the board's disapproval of the liquid livestock
9 litter management plan or a provision of the liquid livestock litter
10 management plan to the Executive Director of the Arkansas Natural Resources
11 Commission.

12 (d) An approved liquid livestock litter management plan constitutes a
13 permit to apply nutrients consistent with the liquid livestock litter
14 management plan.

15 (e) The commission shall promulgate rules necessary to implement this
16 section.

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18 15-20-1116. Liquid livestock waste system permits.

19 (a)(1) When an application for the issuance of a new permit for a
20 liquid livestock waste system or a modification to an existing permit for a
21 liquid livestock waste system is filed, the Arkansas Natural Resources
22 Commission shall give notice of its proposed action within one hundred twenty
23 (120) days of receipt of the application.

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

27 (B) For a modification that the commission considers to be
28 minor, the commission shall make its final decision regarding the permit
29 application within thirty (30) days after receipt of the application.

30 (3) An applicant may waive in writing to the commission the
31 notification period requirements under this section.

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

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

36 (3) An application submitted to the department prior to January

1 1, 2021, shall remain with the department until the permit is approved or
2 disapproved.

3 (c) The commission shall promulgate rules necessary to implement this
4 section.

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6 SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY.

7 (a) The Arkansas Natural Resources Commission shall promulgate rules
8 necessary to implement §§ 15-20-1115 and 15-20-1116.

9 (b)(1) When adopting the initial rules to implement §§ 15-20-1115 and
10 15-20-1116, the final rule shall be filed with the Secretary of State for
11 adoption under § 25-15-204(f):

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

13 (B) If approval under § 10-3-309 has not occurred by July
14 1, 2020, as soon as practicable after approval under § 10-3-309.

15 (2) The commission shall file the proposed rule with the
16 Legislative Council under § 10-3-309(c) sufficiently in advance of July 1,
17 2020, so that the Legislative Council may consider the rule for approval
18 before July 1, 2020.

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21 */s/G. Stubblefield*
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