

New Arkansas Laws Regulate Use and Management of Poultry Litter and Other Nutrients

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Three laws were enacted in 2003 that will affect Arkansas' agricultural producers. The goal of this new legislation is to preserve water quality in the state without creating an unnecessary burden on agricultural interests. Arkansas' commercial poultry farmers, as well as any livestock, forage and crop production operations utilizing poultry litter, will be required to follow provisions of Acts 1059, 1060 and 1061 beginning January 1, 2004. Others impacted by the regulations are agricultural operators and landowners of more than 2.5 acres operating in nutrient surplus areas and any agricultural producers using state or federal funds for creating or implementing nutrient management plans, whether or not they are within designated nutrient surplus areas. Specifically, the new regulations require:

- Certifying all those who apply nutrients to crops or pasture land
- Certifying nutrient management plan writers
- Registering all poultry feeding operations
- Developing and implementing nutrient management and poultry litter management plans for those operating in nutrient surplus areas

Nutrient surplus areas have been designated as follows: the Illinois watershed; the Spavinaw Creek

watershed; the Honey Creek watershed; the Little Sugar Creek watershed; the upper Arkansas River watershed which includes Lee Creek and Massard Creek; the Poteau River watershed; the Mountain Fork of the Little River watershed; the upper White River watershed above its confluence with the Buffalo River. No additional areas may be added unless the areas are added as nutrient surplus areas as designated by the Arkansas General Assembly.

The Arkansas Soil and Water Conservation Commission (ASWCC) has power to impose penalties on those who fail to comply with regulations developed under these acts.

Biosecurity provisions for these regulations state that the ASWCC shall have the power to enter private property to determine compliance. However, all agents of the ASWCC must comply with the biosecurity measures outlined in these acts. These measures include:

- No entry can be made to a facility that regularly keeps poultry without prior owner notification.
- Inspection agents must provide landowners at least twenty-four (24) hours of notice before entry.
- Owners can request to see documentation of biosecurity measures taken by agents of the ASWCC.

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- Should the Arkansas Livestock and Poultry Commission (ALPC) declare a disease outbreak, inspection under these acts will be automatically suspended until the ALPC provides notification that it is safe to resume inspections.

Act 1059: Arkansas Soil Nutrient Management Planner and Applicator Certification Act

This act specifies that training programs must be developed to determine that certified persons have the knowledge, skill and abilities to properly develop nutrient management plans (*planner program*) or properly apply soil nutrients (*applicator program*). Specific program guidelines are:

Nutrient planner program: The ASWCC or an underwriter of the agency will 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. ASWCC can require certification if plan writers develop plans within nutrient surplus areas or the components of the plans are to be paid in whole or part by federal or state funds. Certification of plan writers is on a voluntary basis for those preparing plans outside a nutrient surplus area.

Nutrient applicator program: The ASWCC shall develop and implement a nutrient applicator training and certification program to certify the competence and knowledge of a person making nutrient application, including the proper utilization of poultry litter and commercial fertilizers. Mandatory certification of nutrient applicators in areas of nutrient surplus will be determined by the ASWCC. The applicator program is voluntary for those applying nutrients outside of nutrient surplus areas.

Standards, fees and penalties: For both programs, ASWCC will be responsible for establishing the training criteria and the conditions under which certification may be suspended or revoked, as well as fees associated with the certification process. The ASWCC will have the authority to impose penalties of up to one thousand dollars (\$1,000) per violation against any person violating certification requirements.

Act 1060: An Act to Register Poultry Feeding Operations

This act will establish annual registration of poultry feeding operations with ASWCC. A poultry feeding operation is defined as any lot or facility where a minimum of two thousand five hundred (2,500) poultry are housed or confined and fed or maintained on any one (1) day in the preceding twelve month period. Multiple poultry houses within a reasonable proximity under the control of one (1) owner shall be considered one (1) facility. Information about individual poultry feeding operations will not be public record. However, summary information that prevents identification of individual poultry feeding operations shall be public record. Required information in the registration program includes:

- Number and kind of poultry housed or maintained in the poultry feeding operation
- Location of the poultry feeding operation
- Litter management system used
- Litter storage system used
- Amount of litter stored
- Acreage owned or controlled by the poultry feeding operation and used for land application of litter
- Land application practices used by the poultry feeding operation and the amount of litter applied
- Amount of litter transferred or otherwise utilized by the poultry feeding operation and the type of transfer or utilization
- Poultry processor or processors with which the poultry feeding operation has contracted to provide poultry
- Any other relevant information necessary to effect the purposes of this subchapter

Fees and penalties: The annual registration fee will be \$10 per poultry operation. The ASWCC will have the authority to impose penalties of up to five hundred dollars (\$500) per violation against the owner of a poultry feeding operation that fails to comply with the registration requirements.

Act 1061: An Act to Require Proper Application of Nutrients and Utilization of Poultry Litter in Nutrient Surplus Areas

General Definitions

Litter management system: Any method used to dispose of or utilize litter.

Nutrient: A substance or recognized plant nutrient, element or compound which is used or sold for its plant nutritive content or its claimed nutritive value, and includes litter, compost as fertilizer, commercially manufactured chemical or organic fertilizers, sewage sludge or combinations thereof.

Nutrient applicator: Any person who applies nutrients to soil or associated crops.

Nutrient application: The process by which humans apply nutrients to soil or associated crops.

Nutrient management plan: Any plan prepared to assist landowners and operators in the proper management and utilization of nutrient sources for maximum soil fertility and protection of the waters within the state.

Protective rate: The agronomic rate or other rate as determined by the commission of a designated nutrient that provides for proper crop utilization and prevention of significant impact to waters within the state.

In nutrient surplus areas, it is necessary to limit the application of nutrients and regulate the utilization of poultry litter to protect the area while maintaining soil fertility. The ASWCC shall designate that any nutrient application within a nutrient surplus area shall be applied under time, place and manner restrictions as determined necessary by the commission to protect the soil fertility, crop vitality and the waters within the state. Designated nutrient

applications 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. Nutrients may be applied only by a certified nutrient applicator if within nutrient surplus areas. The landowner is responsible for maintaining documentation of the nutrient application in accordance with their plan. Poultry feeding operations within a surplus nutrient area shall develop and implement a poultry litter management plan acceptable to ASWCC. The poultry litter management planner shall have obtained certification from ASWCC in planning. Information collected about an individual poultry feeding operation shall not be public record. Compilation or summary information that prevents identification of individual poultry feeding operations shall be public record. The commission may accept a plan or permit prepared to comply with federal law as a poultry litter management plan. Upon sale or transfer of poultry litter from a poultry feeding operation within a nutrient surplus area to any user, the poultry feeding operation shall not be responsible for the ultimate utilization of the poultry litter.

Penalties: The ASWCC may impose administrative penalties not to exceed twenty-five hundred dollars (\$2,500) per violation against any person who violates the requirements of Act 1061.

For More Information

This fact sheet provides a brief summary of the new regulations. A more detailed description can be obtained by visiting the following websites:

<http://www.arkleg.state.ar.us/ftp/acts/2003/public/act1059.pdf> (Act 1059)

<http://www.arkleg.state.ar.us/ftp/acts/2003/public/act1060.pdf> (Act 1060)

<http://www.arkleg.state.ar.us/ftp/acts/2003/public/act1061.pdf> (Act 1061)

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