

Liquid Animal Waste Systems/92nd Arkansas General Assembly: Proposed Transfer of Permitting Authority from Arkansas Department of Environmental Quality to Arkansas Natural Resources Commission



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Senate Bill 550 was recently introduced which would address liquid animal waste systems and liquid livestock litter utilization.

A key provision of the legislation would be the proposed transfer of liquid animal waste system permitting from the Arkansas Department of Environmental Quality (“ADEQ”) to the Arkansas Natural Resources Commission (“ANRC”).

Arkansas Code § 8-4-203(n) currently tasks the ADEQ with permitting responsibilities related to liquid animal waste systems. This statutory provision would be deleted. The agency implements this statutory authority through Arkansas Pollution Control and Ecology Commission Regulation 5.

Ark. Code Ann. 15-20-1116 would provide that the agency responsible for liquid livestock waste system permits would be the ANRC.

The legislation also addresses the utilization of liquid livestock litter. Title 15, Chapter 20, Subchapter 11 is amended to add additional sections which would require:

- Development of implementation of a liquid livestock litter management plan acceptable to ANRC
- Acquisition of a certification from ANRC making the liquid livestock litter management plan part of the nutrient management plan of a confined livestock feeding operation

The components of the liquid livestock litter management plan, which would be integrated into a nutrient management plan, are also detailed. Notably, nutrient management plans must also “be approved by the board of directors of the conservation district” where the land covered by the nutrient management plan is situated. Ark. Code Ann 15-20-1107.

SB 550 also provides that upon request by ANRC:

. . . the Arkansas Department of Environmental Quality shall provide technical assistance to the commission related to permitting a facility affected by subdivision (c)(1) of this section.

ADEQ has traditionally been the agency tasked with environmental permitting in the state. The 1949 enactment of the Arkansas Water and Air Pollution Control Act established the governing structure of the then Arkansas Department of Pollution Control and Ecology along with a Commission. It also created the general procedural framework for most permit and rulemaking proceedings, enforcement actions, and appeal actions. Further, it developed a basic substantive prohibition against water pollution and the requirements for obtaining a permit for water discharges. The broad scope of the legislation has been utilized to provide authority for permitting programs that may not be within the reach of Clean Water Act “waters of the United States.”

ADEQ and the Arkansas Pollution Control and Ecology Commission utilize various administrative regulatory procedures and policies to administer the various permitting programs. To govern these administrative tasks, Regulation No. 8, Administrative Procedures, was promulgated. The procedures of Regulation No. 8 are followed by the Commission, ADEQ and persons involved in proceedings before either body.

ANRC has traditionally established policy and provided funding and regulatory decisions related to:

- Soil Conservation
- Nutrient Management
- Water Rights
- Dam Safety
- Water Resources Planning and Development

A predecessor organization was created through the Arkansas General Assembly’s decision to abolish the Water Conservation Commission and the Water Compact Commission in 1963. Key ANRC programs include responsibility for state water and sewer infrastructure loan and grant programs along with the Clean Water Act Construction Assistance Revolving Loan Fund program.

SB 550 is under review by various organizations that have raised concerns, including:

- EPA’s Region 6 has written and notified ADEQ that EPA is reviewing SB 550 and that based on its initial review, “SB550 merits further evaluation to determine its effect on NPDES permitting and enforcement in the State and to consider potential issues related to transferring authorities to another department in the State.” EPA further noted that “SB550 may implicate federal requirements addressing discharges from concentrated animal feeding operations (CAFOs) into waters of the US, including permitting and public notice requirements, as well as requirements for unpermitted operations.”
- Environmental organizations have raised questions about the technical standards that would apply to the liquid livestock litter management plans, the adequacy of public participation opportunities, the capacity for oversight and enforcement by ANRC, and the increased regulatory role of the county conservation districts.

Supporters argue that the bill:

- Consolidates regulations for litter and animal waste in one agency
- Does not prohibit ANRC from adopting identical rules to any applied by ADEQ
- Will not exempt farms from the Arkansas Water and Air Pollution Control Act

The lead sponsor of SB 550 is Senator Gary Stubblefield (Branch) and co-sponsor is Representative Mary Bentley (Perryville).

The bill, as amended, was passed by the Arkansas Senate and transmitted to the House of Representatives.

A copy of the bill can be found [here](#).