

2001 SUMMARY OF ENVIRONMENTAL LEGISLATION

Summary of Environmental Related Legislation Adopted in the 2001 Arkansas Legislative Session - By Kelly M. McQueen

Act 7 - Amends the composition of the Ouachita River Commission to include a member from Hot Spring County. See A.C.A. 15-23-803; 15-23-804. See also Act 314. Effective date: 8/13/01.

Act 70 - Changes the recycling grants reporting period to the state fiscal year, requires the report to be filed with the Governor and the Legislative Council and clarifies the regulatory requirements of recycling grant recipients. See A.C.A. 8-6-609(d); 8-6-610(c). Effective date: 8/13/01.

Act 92 - Amends the scenic designation of the Great River Road to include parts of Highways 1, 4 and 165. See A.C.A. 27-67-203(10). Effective date: 8/13/01.

Act 94 - Adopts as a goal to recycle 40% of Arkansas' municipal solid waste by 2005 and 45% by 2010 and defines "municipal solid waste" as waste, including yard waste, produced by individuals, public entities, agriculture, and businesses, including waste not traditionally included in the recycling rate calculation that is eligible for disposal in a landfill. See A.C.A. 8-9-101; 8-9-104. Effective date: 8/13/01.

Act 115 - Authorizes the creation of Public Water Authorities to allow not-for-profit corporations involved in the sale, transmission and distribution of water to the public to allow the entities to access the tax-exempt capital markets and sets forth the powers and management guidelines of such Water Authorities including the issuance of interest bearing bonds. Effective date: 8/13/01.

Act 145 - Amends the Litter Law by adjusting the fine for a first offense to \$100 with a sentence of 8 hours of community service, declares a second or subsequent offense occurring within 3 years of the first offense a Class A misdemeanor and dedicates the fine money for anti-littering programs by the Keep Arkansas Beautiful Commission and by local governments. See A.C.A. 8-6-404; 8-6-406 & 8-6-407. Effective date: 8/13/01.

Act 153 - Amends the Natural Gas Pipeline Safety Act by adding the definition of "petroleum refinery," amending the definition of "transportation of gas" to exclude the gathering, transmission, or distribution of natural gas containing 100 ppm of hydrogen sulfide for that portion of a pipeline or a pipeline facility that is located within the fenced boundary of a petroleum refinery. See A.C.A. 23-15-203. Effective date: 8/13/01.

Act 164 - Amends the Arkansas Voluntary Cleanup Act by adding the legislative declaration that a prospective purchaser, that is not considered a responsible party, may submit a Letter of Intent to purchase the site and retain eligibility for participation in the Voluntary Cleanup program and by changing the term "consent administrative order" to "implementing agreement" which is also defined. See A.C.A. 8-7-1101 et seq. Effective date: 8/13/01.

Act 206 - Clarifies the right of an owner/operator of a Petroleum Storage Tank who considers himself injured by a final decision of the ADEQ Director to appeal within 30 days of the final decision to the Arkansas Pollution Control and Ecology Commission. See A.C.A. 8-7-905. Effective date: 8/13/01.

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amount for the Small Business Revolving Loan Fund to \$20,000 per mandated pollution project, \$25,000 per pollution project, \$20,000 per waste reduction project and \$45,000 per individual company. See A.C.A. 8-5-802; 8-5-803; 8-5-804(b)(1); 8-5-806. Effective date: 8/13/01.

Act 217 - Requires Class 1 and Class 3C landfills to install and use weight scales, to report the weight of solid waste received and to calculate landfill disposal fees based upon the weight of solid waste received at the landfill. See A.C.A. 8-6-606; 8-6-1003. Effective date: 8/13/01.

Act 242 - Modifies the license renewal process for private applicators of pesticides to require the issuance of a private applicator's license if the applicant is competent and has paid a minimum fee of \$10 for a one-year license and \$45 for a five-year license. See A.C.A. 20-20-211. Effective date: 8/13/01.

Act 314 - Amends the composition of the Ouachita River commission to include one member from both Dallas and Hot Spring counties. See A.C.A. 15-23-803; 15-23-804. See also Act 7. Effective date: 8/13/01.

Act 318 - Eliminates the authority of state agency directors who are members of the Arkansas Pollution Control and Ecology Commission from designating anyone other than their deputy directors or assistant directors to serve in their stead on the Commission. See A.C.A. 8-4-104. Effective date: 8/13/01.

Act 319 - Requires state agencies, excluding state supported institutions of higher education, that receive grants in excess of \$25,000 from any source to report to the Legislative Council within 45 calendar days after receipt of the grant. Effective date: 8/13/01.

Act 342 - Supplements the funds appropriated by Act 1464 of 1999, by making an appropriation for personal services and operating expenses for the ADEQ. Emergency effective date: 2/21/01.

Act 343 - Makes an appropriation of \$400,000 to the ADEQ for contract services to complete the TMDLs for all impaired waters in the state under the federal Clean Water Act. Emergency effective date: 7/1/01.

Act 346 - Makes an appropriation of \$3.8 million to the ADEQ for state matching grants for construction of wastewater treatment facilities. Emergency effective date: 7/1/01.

Act 449 - Amends the Emergency Response Fund Act and the Remedial Action Trust Fund Act to exempt from liability a person who arranged for recycling of recyclable materials. A.C.A. 8-7-42; 8-7-524. Effective date: 8/13/01.

Act 459 - Transfers the Construction Assistance Revolving Loan Fund Program from the ADEQ to the Arkansas Soil and Water Conservation Commission. Emergency effective date: 7/1/01.

Act 541 - Extends special incentives for qualified manufacturers of steel including exemption from specified taxes, carry forward of the net operating loss deduction and extension of the recycling tax credit. See A.C.A. 26-25-101; 26-51-506. Effective date: 8/13/01.

Act 544 - Requires any person, excluding public utilities constructing a right-of-way, desiring to cut and remove timber to cause the land to be surveyed, or to rely in good faith on an existing marked line or established corners, or to acquire a document agreeing to the boundaries signed by the landowner selling the timber and the adjoining landowners. See A.C.A. 15-32-101. Effective date: 8/13/01.

Act 550 - Amends the Open Cut Land Reclamation Act by changing the maximum civil penalty ADEQ can assess for violations, requiring open-cut mining operations to maintain an undisturbed buffer zone of 50 feet from any adjacent property line or right-of-way until reclamation begins, changing the open-cut permit application fee to \$10 per acre with a \$200 minimum, and allowing stockpiles of processed materials to remain if there may be a future market for them and the stockpiles pose no risk of pollution. See A.C.A. 15-57-305; 15-57-309; 15-57-311(f); 15-57-315. Effective date: 8/13/01.

Act 618 - Amends the Regional Water Distribution District Act expanding the powers of public nonprofit water distribution districts and water districts regarding the collection, transportation, treatment and disposal of sewage and liquid waste. See A.C.A. 14-116-102; 14-116-402. Emergency effective date: 3/8/01.

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Act 727 - Broadens the Water Conservation Projects for which a tax credit may be taken to include commercial purposes while eliminating eligibility for irrigation projects. See A.C.A. 26-51-1003(7); 26-51-1005; 21-51-1006. Emergency effective date: 3/12/01.

Act 753 - Amends the Uniform Controlled Substances Act to include liability for the cost of the cleanup of the site where the person manufactured a controlled substance or possessed drug paraphernalia or chemicals for the purpose of manufacturing a controlled substance. See A.C.A. 5-64-401. Effective date: 8/13/01.

Act 803 - Prohibits the possession or use of glass containers in vessels, requires that specified items in a vessel be properly secured, requires vessels to have a trash container capable of being securely closed, and requires beverage containers to be prevented from sinking, while one is recreating on the state's navigable waters. Effective date: 8/13/01.

Act 983 - Requires a state agency to notify the Legislative Council of its intention to repeal any rule or regulation which is on file with the Bureau of Legislative Research and authorizes the Legislative Council to selectively review proposed rules, to request a representative of an agency to attend a council meeting and to recommend enactment of a statute to improve the operation of the agency. See A.C.A. 10-3-309. Effective date: 8/13/01.

Act 986 - Amends the law concerning the operation of municipal sewage systems by adding to the definition of "works" storm water management, the creation and operation of a storm water utility, the creation and operation of a storm water department, and other like organizational structures related to the disposal or treatment of storm water by municipalities. See A.C.A. 14-235-201. Effective date: 8/13/01.

Act 1065 - Includes coal mining operations that employ 25 or more net full-time permanent persons for eligibility under the Economic Development Laws. See A.C.A. 15-4-1704(b); 26-52-702(3); 15-4-1605(1). Effective date: 8/13/01.

Act 1069 - Adds to the list of unlawful actions under the Solid Waste Management Act to include violations of provisions of a solid waste permit issued by the ADEQ. See A.C.A. 8-6-205(a)(1). Effective date: 8/13/01.

Act 1130 - Amends the Abandoned Agricultural Pesticide Disposal Act to provide for the proper disposal of abandoned pesticides used in agriculture and for other uses, changes the name of the Board to the Abandoned Pesticide Disposal Board, adds a representative from the State Plant Board to be a member of the APDB, and sets forth the methods of receiving money for the Trust Fund. See A.C.A. 8-7-1202 through 8-7-1206. Effective date: 8/13/01.

Act 1184 - Amends various definitions, violations and certification requirements for water well drillers and pump installers contained in the Arkansas Water Well Construction Act. See A.C.A. 17-50-103; 17-50-104; 17-50-301; 17-50-302. Effective date: 8/13/01.

Act 1247 - Creates the offense of timber theft and classifies it as a class D felony if the amount of money a timber purchaser retained, used, dispersed, or diverted before paying the beneficiaries is \$500 or more, and a class A misdemeanor if under \$500. Effective date: 8/13/01.

Act 1254 - Provides for an interim study to evaluate legislative actions which could provide incentives for cities and counties which are designated as non-attainment areas with regard to the National Ambient Air Quality Standards under the federal Clean Air Act. Effective date: 8/13/01.

Act 1312 - Provides that drainage improvement districts shall not lose real property or easements to adverse possession. See A.C.A. 22-1-205. Emergency effective date: 4/5/01.

Act 1376 - Directs the ADEQ to develop a Statewide Solid Waste Management Plan. See A.C.A. 8-6-1901 through 8-6-1904. Effective date: 8/13/01.

Act 1410 - Named the Arkansas Computer and Electronic Solid Waste Management Act, lists findings concerning computer and electronic solid waste management, creates policies for the sale of state agency surplus equipment, regulates the disbursement of revenues generated from the sale of equipment and authorizes the ADEQ to administer a recycling fund and to study the current and future solutions for long term disposal options. See A.C.A. 25-8-106(b)(2). Effective date: 8/13/01.

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Act 1413 - Regulates the construction of motor vehicle racing facilities in specified areas of the state. See A.C.A. 8-10-304. Effective date: 8/13/01.

Act 1416 - Makes an appropriation for personal services and operating expenses for the ADEQ for the biennial period ending June 30, 2003. Effective date: 7/1/01.

Act 1426 - Amends the Groundwater Management and Protection Act by designating a “sustaining aquifer” as any aquifer excluding the state’s alluvial aquifers, which is used as a significant source for water supply, declaring that there shall be no reduction or limitation of the withdrawal of groundwater from existing wells in a sustaining aquifer for which a water right is grandfathered, and requiring any well constructed after 9/30/01 to be equipped with a water measuring or metering device. See A.C.A. 15-22-903; 15-22-905; 15-22-909(b); 15-22-910; 15-22-915. Effective date: 8/13/01.

Act 1471 - Amends the law regarding Regulated Storage Tanks and the Petroleum Storage Tank Trust Fund by requiring storage tank owners to complete and submit to the ADEQ a self-inspection audit so as to be eligible for Trust Fund reimbursement and provides that the ADEQ may assess civil penalties for violations of state or federal petroleum storage tank laws and regulations. See A.C.A. 8-7-801; 8-7-815; 8-7-902(6); 8-7-907. Emergency effective date: 4/10/01.

Act 1553 - Arkansas Code Commission’s Technical Corrections bill which merges A.C.A. 14-114-103 and 104 with A.C.A. 14-114-104 repealed concerning watershed or basin studies and transfers A.C.A. 19-5-1092 to 19-5-1094 to a new section of the Code with those sections then repealed concerning the State Plant Board. Effective date: 8/13/01.

Act 1625 - Provides that the State Claims Commission does not have jurisdiction over claims which may be brought in state or federal court against a state agency or claims which are not cognizable in law or equity. See A.C.A. 19-10-204. Effective date: 8/13/01.

Act 1648 - Amends various provisions of the Administrative Procedure Act. See A.C.A. 25-15-202(4); 25-15-203(b); 25-15-204; 25-15-205; 25-15-212 through 216. Effective date: 8/13/01.

Act 1653 - Amends numerous provisions of the Freedom of Information Act including the addition of electronic or computer based information to the definition of “public records” and excluding from the Act records regarding computer security functions. See A.C.A. 25-19-103; 25-19-105; 25-19-108; 25-19-109. Emergency effective date: 4/16/01.

Act 1686 - Empowers illegal dump control officers to issue and serve citations for violations of the Arkansas Solid Waste Management Act prohibiting illegal dumping, subject to exemptions. See A.C.A. 8-6-508; 8-6-205; 8-6-509. Effective date: 8/13/01.

Act 1720 - Makes it unlawful to divert for personal or commercial purposes any recyclable materials placed in a recycling container of another person or entity. See A.C.A. 5-36-120; 8-6-211(e); 8-6-212(e); 8-6-720(e). Effective date: 8/13/01.

Act 1753 - Prohibits the discharge of agricultural irrigation waters onto interstate or state highways. Effective date: 8/13/01.