Angry farmers tell lawmakers to toss chicken litter law

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LITTLE ROCK - A committee roomful of angry farmers and ranchers roundly criticized three new "chicken litter" laws aimed at improving Northwest Arkansas' water quality Thursday at the state Capitol.

The House Committee on Agriculture, Forestry and Economic Development, after hearing four hours of testimony concerning Acts 1059, 1060 and 1061 of 2003, referred the new laws back to the Rules and Regulations Committee of the Legislative Council to make major changes to the laws' regulations.

"I say throw this dang thing out the window," Harrison farmer Mosco Cash said of new regulations that went into effect on Jan. 1. "You got fine print in here that none of us can read or understand. It bothers me to see regulations that say, 'I can't do this, I can't do that."

The laws, designed to reduce the high phosphorus levels in the region's streams that flow into Oklahoma, were passed by the Legislature in March 2003 and went into effect on Jan. 1. However, lawmakers must review and approve the final version of the proposed rules written by the Arkansas Soil and Water Conservation Commission.

The Legislative Council is holding its final meeting today in advance of the 85th General Assembly that begins on Jan. 10.

Thursday's action by the House panel will delay promulgation of the new rules by the Legislature, and possibly set up a showdown over the three Huckabee administration-backed laws during the legislative session.

Cash, who operates four farms in the Northwest Arkansas, told the House panel that he has taken several hundred acres of unfarmed property and used chicken litter to turn it into productive land.

"If these regulations go into effect, it is going to cut back our operations," Cash said.

The new standards include a controversial "slope" requirement and a phosphorus limit of 0.037 part per million in Oklahoma's six state-designated scenic rivers. Four of those rivers, including the Illinois River, begin in Arkansas.

Also, the new regulations will require landowners in all or parts of 13 counties to be certified. The 13 counties are Scott, Sebastian, Crawford, Washington, Benton, Carroll, Madison, Boone, Marion, Polk, Baxter, Newton and Franklin.

A common practice in the region is applying chicken litter, which contains phosphorus, to farmland as fertilizer. Some of the litter eventually runs into nearby creeks and streams.

Oklahoma and Arkansas negotiated for months over acceptable phosphorous levels, but could not reach an agreement.

Despite the Arkansas Department of Environmental Quality's argument that the Oklahoma standards were unachievable under any circumstances, Oklahoma asked the federal Environmental Protection Agency to approve its proposed rules.

Randy Young, state Soil and Water Conservation Commission executive director, warned the House panel that his agency would not support any major changes to the new laws.

"That would be totally contradictory to the spirit of the legislation that was passed," Young said. "I can't support (changes) that are counter to what the legislation is seeking to accomplish."

Morril Harriman, executive vice president of the Poultry Federation, also told the House panel that they should approve the new rules as is and forward them to the legislative council.

"If you refused to act and refuse to look at reasonable regulations ..., then somebody will do it for us and we will lose the ability to act," Harriman warned. "I would prefer that members around this table decide what we should do instead of a federal judge or policymakers in Oklahoma and Missouri."

However, Rodney Baker, director of governmental affairs for the Arkansas Farm Bureau, told the panel that the Legislature should take up the issue again during the 2005 session and make the necessary changes.

"We hear loud and we hear strong that we need to revisit these rules and open discussions again," Baker said.

Meanwhile, Oklahoma Attorney General Drew Edmondson and representatives from six poultry companies recently concluded two days of negotiations aimed at settling a possible lawsuit regarding poultry litter and Oklahoma water quality.

Harriman, who participated in those talks, told the House committee that "some progress had been made."

"Will those negotiations produce any results? I don't know," Harriman told the committee concerning the confidential talks that also included representatives from Tyson Foods and George's Inc. in Springdale.

Edmondson said the groups will continue to meet in small groups through the end of December and meet again formally after the first of the year.

"We are still making positive progress, but there has been no final resolution," the Oklahoma attorney general said last week.