



ARKANSAS ENERGY & ENVIRONMENT

Sarah Huckabee Sanders
GOVERNOR

Shane E. Khoury
SECRETARY

February 1, 2024

VIA ELECTRONIC MAIL

Administrative Rules Subcommittee
Arkansas Legislative Council
Senator Kim Hammer, Co-Chair
Representative Brian Evans, Co-Chair
c/o Rebecca Miller-Rice
Bureau of Legislative Research
Email: miller-ricer@blr.arkansas.gov

RE: Ark. Code Ann. §25-15-216(b)(4) Summary

Senator Hammer and Representative Evans:

As required by Arkansas Code Ann. §25-15-216(a), the Department of Energy and Environment (E&E) acknowledges that Act 140 of the 94th General Assembly requires the amendment of Oil and Gas Commission General Rule D-23, "General Rule for the Regulation of Underground Natural Gas Storage Projects," Act 713 of the 94th General Assembly requires the amendment of Arkansas Pollution Control and Ecology Commission (APC & EC) Rule 36, "Tire Accountability Program," and Act 422 of the 94th General Assembly requires the amendment of APC & EC Rule 12, "Storage Tanks."

Ark Code § 15-72-601 *et seq.*, was amended by Act 140 of 2023, to provide for the underground storage of carbon oxides, ammonia, hydrogen, nitrogen, or noble gas, as well as natural gas. E&E anticipates amending Oil and Gas Commission General Rule D-23 to conform to the act and implement this expansion of the scope of application. The amendment will allow for the development of underground storage facilities for the other gases authorized in the act.

Act 713 made changes to the Used Tire Recycling and Accountability Act, which is codified at Ark. Code Ann. § 8-9-401, *et seq.* The act changed the method by which business plans will be approved, the structure of the tire accountability boards and programs, the audit and accountability requirements for programs, and other substantive provisions of the law. E&E's anticipated amendments to APC & EC Rule 36 will modify the rule to implement these statutory changes.

Act 422 increased the maximum amount of the refund available from the Petroleum Tank Trust Fund for corrective action from \$1,500,000 to \$2,000,000. E&E's anticipated amendments to APC & EC Rule 12 will change the rule to reflect this new statutory requirement.

As required by Ark. Code Ann. §25-15-216(b)(4), and at your request, we are providing the following summary regarding the progress of these rulemakings:

As of the date of this letter, E&E attorneys have completed a mark-up and clean draft of the proposed

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amendments to General Rule D-23 “General Rule for the Regulation of Underground Natural Gas Storage Projects,” and have completed the Executive Summary, Legislative Questionnaire, Financial Impact Statement, and other documents required for the rule approval process. E&E has completed the internal review of the rule amendments and has now sent the rulemaking packet to the Governor for her review and approval. After the Governor’s approval, E&E will initiate the formal rulemaking process before the Oil and Gas Commission.

In regard to the amendments to Rule 36 “Tire Accountability Program,” E&E attorneys and staff are in process of developing a draft of the rule that implements the required changes. Once a final draft has been approved, E&E will draft the other documents necessary for the rule amendment approval process.

In regard to the amendments to Rule 12 “Storage Tanks,” E&E has sent the rulemaking packet to the Governor for her approval. After the Governor’s approval, E&E will initiate the formal rulemaking process before the APC & EC.

Please let me know if you have any further questions. Thank you for your consideration of the General Rule D-23, Rule 36, and Rule 12 amendments.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Ballard".

Lauren Ballard
Chief of Staff
Department of Energy and Environment