



ARKANSAS

ENERGY & ENVIRONMENT

Sarah Huckabee Sanders
GOVERNOR

Shane E. Khoury
SECRETARY

October 2, 2023

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(c) Exclusions

Senator Hammer and Representative Evans:

As required by Arkansas Code Ann. § 25-15-216(c), the Department of Energy and Environment (E&E) formally requests that the following possible rule amendments which may be required by newly enacted legislation be excluded from the reporting requirements of Arkansas Code Ann. § 25-15-216(b).

Act 390 of the 94th General Assembly amended the law to allow the Division of Environmental Quality to set certain fees based upon the actual administrative costs of evaluating permit applications and of enforcing and implementing the terms and conditions of the permits issued. This act may require the amendment of Arkansas Pollution Control and Ecology Commission (APC & EC) Rule 9, "Fee Rule." At this stage, E&E does not believe a fee modification is warranted. Should E&E need to amend the fee, it will undertake an extensive review of the cost of enforcing and implementing the permits. Therefore, because this possible rule amendment is not ripe for consideration, we formally request that this potential rule amendment be excluded from the reporting requirements of Arkansas Code Ann. § 25-15-216(c).

Act 834 of the 94th General Assembly transfers authority for APC & EC Rule 5 permits (Liquid Animal Waste) to the Department of Agriculture. The act requires that the Department of Agriculture rely upon Rule 5 until it can promulgate its own rule. Accordingly, any repeal of Rule 5 should be delayed until the Department of Agriculture has promulgated a replacement rule. The Department requests an exclusion to the reporting requirements because under the legislation cited above, no repeal of the rule is necessary or required at this time.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. E. Khoury'.

Shane E. Khoury
Secretary
Department of Energy and Environment

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT

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