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JANUARY 15, 2026

# Proposed Rulemaking

## Title

Part 469. Wind Energy Development Rules

Promulgated by:  
Arkansas Public Service Commission

### Title 23. Public Utilities and Regulated Industries

#### Chapter XVI. Arkansas Public Service Commission

##### Subchapter A. Generally

##### Part 469. Wind Energy Development Rules

##### Subpart 1. Generally

#### 23 CAR § 469 – 101. Authority.

This part is developed pursuant to the Arkansas Wind Energy Development Act, Arkansas Code § 23-18-1301 **1401** et seq.

#### 23 CAR § 469 - 102. Purpose.

Consistent with the Arkansas Wind Energy Development Act, this part is adopted to establish standards and criteria for permitting and regulating wind energy facilities and promote, preserve, and protect the public peace, health, safety, and welfare through effective permitting and regulation of wind energy facilities **This part is not intended to supersede or contradict any of the requirements under Arkansas Code § 23-18-501 et seq or Arkansas Code § 23-3-201 et seq.**

#### 23 CAR § 469 – 103. Definitions.

The following definitions shall apply to this part, and any references to this part shall include these definitions, except as required by context.

(1) "Abandonment" means the failure to generate electricity in commercial quantities for a period of one hundred eighty (180) consecutive days unless the termination of electricity was:

(A) Mandated by state or federal law; or

(B) Authorized by the Arkansas Public Service Commission.

(2) "Adversely affect" means to cause any significant and widespread adverse effect, which may be reasonably anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

(2)(3)(A) "Commercial quantities" means an amount of electrical energy sufficient to sell or use off-site from a wind energy facility.

(B) "Commercial quantities" does not include amounts of electrical energy only used for the maintenance or testing of the wind energy facility or components of the wind energy facility.

(3)(4)(A) "Construct" means the activity of clearing land, excavation, relocation of utilities, a wind energy facility expansion, or other action that would adversely affect the natural environment of the proposed site.

(B) "Construct" does not include the activity of:

(i) An erection of a meteorological tower;

(ii) An environmental assessment;

(iii) A survey;

(iv) Any necessary borings to ascertain foundation conditions;

(v) Any preliminary engineering; or

(vi) Any other activities associated with an assessment of development of wind resources on a given parcel of property;

(4)(5) "Financial Security" means a surety bond, collateral bond, irrevocable letter of credit, parent guaranty, cash, cashier's check, certificate of deposit, bank joint custody receipt, or other approved negotiated instrument, or any combination of these items in the amount of one hundred percent (100 percent) of the estimate of the total cost to decommission and remove the wind energy facility as determined by an independent consultant, selected and paid for by the applicant.

(5)(6) "Generation Interconnection Agreement" means a legally binding document that outlines the terms and conditions for connecting a generation facility to an electricity transmission or distribution network. Where a Regional Transmission Organization that provides generation interconnection service in Arkansas maintains a tariff

for such services on file with the Federal Energy Regulatory Commission, Generation Interconnection Agreement shall mean an agreement that conforms with the terms and conditions of the Regional Transmission Organization's pro forma Generator Interconnection Agreement under said Regional Transmission Organization tariff.

~~(6)~~(7) "Local government" means:

(A) A county;

A city of the first class or city of the second class;

(B) A city of the first class or city of the second class;

(C) An incorporated town; or

(D) Any other political subdivision of this state.

~~(7)~~(8) "Local legislation" means:

(A) An ordinance enacted by a local legislative body;

(B) A resolution passed by a local legislative body;

(C) A motion made by a local legislative body;

(D) An amendment adopted by a local legislative body; or

(E) A rule or regulation promulgated by a local legislative body.

~~(8)~~(9) "Local legislative body" means the governing body of a local government.

~~(9)~~(10) "Nonparticipating landowner" means a landowner that is not under a lease or other property agreement with the owner or operator of a wind energy facility;

~~(11)~~(A) "Operate" means an activity associated with the management, operation, and maintenance of a completed wind energy facility.

(B) "Operate" includes without limitation installing or improving a wind energy facility.

~~(11)~~(12) "Operator" means a person that operates a wind energy facility.

~~(12)~~(13) "Owner" means a person that has a majority equity interest in a wind energy facility.

~~(13)~~(14) "Person" means a natural person, corporation, limited liability company, partnership, joint venture, or other private business entity.

~~(14)~~(15)(A) "Proprietary information" means commercial or financial information that:

(i) Is used directly or indirectly in the business of an applicant submitting information to a local government under the **Arkansas Wind Energy Development Act** is subchapter; and

(ii) Gives an applicant submitting information to a local government under the **Arkansas Wind Energy Development Act** subchapter an advantage or an opportunity to obtain an advantage over a competitor that does not know of, or otherwise use, the information.

(B) "Proprietary information" includes ~~without limitation~~ trade secrets;

~~(15)~~(16)(A) "Redevelop" means the process of replanning, reconstructing, or redesigning a wind energy facility, including the acquisition, clearance, development, or disposal, or any combination of these activities, of a wind energy facility.

(B) Redevelop does not include maintenance and repairs, including replacements and disposal of components of a wind energy facility, necessary for continued operations consistent with the original design.

~~(17)~~(16) "Regional Transmission Organization" means an organization in the United States that is an electric power transmission system operator responsible for coordinating, controlling, and monitoring a multi-state electric grid.

~~(17)~~(18)(A) "Transmission facility" means a power cable, distribution line, or other equipment that delivers electricity from a wind turbine located in Arkansas to the point of interconnection with a power distribution grid, long-distance power **transmission grid, or other facility by and through which the electricity is** distributed or transmitted to one (1) or more customers.

(B) "Transmission facility" does not include distribution, transmission, or other facilities that are located beyond the point of interconnection with the power distribution grid or transmission grid.

~~(19)~~(18) "Under development" means:

(A) Executed land leases;

(B) Commenced necessary state and federal studies related to construction of a wind energy facility; or

(C) Commenced construction of a wind energy facility.

(20)(19) "Useful life" means the amount of time during which a wind energy facility is generating electricity in commercial quantities.

(2021)(A) "Wind energy facility" means an electrical energy generation facility consisting of one (1) or more wind turbines under common ownership or operating control, that cumulatively, with any other wind energy facility:

(i) Has a rated capacity of five megawatts (5 MW) or more of electrical energy; and

(ii) Is more than two hundred feet (200') in height.

(B) "Wind energy facility" includes ~~without limitation~~ turbines, towers, buildings, transmission facilities, meteorological towers, transformers, control systems, and other associated facilities used to support the operation of the wind energy facility.

(C) "Wind energy facility" does not include equipment that when installed in connection with a dwelling transmits or uses wind energy to produce electrical energy in a useful form for residential purposes and is less than two hundred feet (200') in total height;

(2122) "Wind energy facility expansion" means an activity that:

(A) Adds or substantially modifies a wind energy facility, including without limitation increasing the height or the number of the wind turbines, transmission facilities, or other equipment; or

(B) Increases the environmental footprint of a wind energy facility;

(2223)(A) "Wind turbine" means a wind energy conversion system that converts wind energy into electricity using a wind turbine generator.

(B) "Wind turbine" includes ~~without limitation~~ a turbine, blade, tower, base, and pad transformer, if any.

### **23 CAR § 469 – 104. Applicability**

This part applies to wind energy facilities and wind energy facility expansions, as defined in Arkansas Code § 23-18-~~1303~~1403 and section 103 of this part.

### **23 CAR § 469 – 105. Procedures**

Unless otherwise specified, the Rules of Practice and Procedure, 23 CAR pt. 462, shall govern procedural matters initiated under this part.

### **23 CAR § 469 – 106. Information Subject to Disclosure**

- (a) Pursuant to Arkansas Code § 23-18-~~1316~~1416, proprietary information contained in a wind energy facility or wind energy facility expansion permit application or in documents submitted in support of the permit application to the Arkansas Public Service Commission or documents used by the Arkansas Public Service Commission to evaluate and approve or deny a permit application shall remain confidential and is not subject to disclosure to the public under the Arkansas Wind Energy Development Act, Arkansas Code § 23-18-~~1316~~1416 et seq., the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., or any other law.
- (b) Regarding records that are protected pursuant to Arkansas Code § 23-18-~~1316~~1416, if it becomes necessary to file records with the Arkansas Public Service Commission, provide records to the General Staff of the Arkansas Public Service Commission, or provide records to a party to an Arkansas Public Service Commission proceeding pursuant to these Rules, any such records shall be filed or provided in the same manner as information submitted pursuant to a protective order issued by the Arkansas Public Service Commission pursuant to the Rules of Practice and Procedure, 23 CAR pt. 462.
- (c) Any Party may contest a claim of confidentiality of the records submitted by written motion within five (5) days of the filing of the records or may contest continuing entitlement to protection in accordance with the Rules of Practice and Procedure, 23 CAR pt. 462.
- (d) Challenge of the status of any record claimed as protected shall be pursuant to the Rules of Practice and Procedure, 23 CAR § 462.
- (e) Disclosure of records provided as confidential pursuant to this sub-section will be limited to those persons who sign an affidavit of non-disclosure in the form prescribed by the Arkansas Public Service Commission.

(f) Affidavits of non-disclosure signed pursuant to this section shall comply with the requirements contained in the Rules of Practice and Procedure, 23 CAR pt. 462.

(g) Any Arkansas Public Service Commission employee or agent participating in any inspection of wind energy facility or wind energy facility expansion records that are protected pursuant to statute or Arkansas Public Service Commission order shall execute an affidavit of non-disclosure pursuant to the Rules of Practice and Procedure, 23 CAR § 462 in the form prescribed by the Arkansas Public Service Commission.

(h) Any Arkansas Public Service Commission employee or agent investigating any informal (undocketed) complaint that involves wind energy facility or wind energy facility expansion records that are protected pursuant to statute or Arkansas Public Service Commission order shall execute an affidavit of non-disclosure pursuant to Proceedings, 23 CAR § 462 – 401 et seq. in the form prescribed by the Arkansas Public Service Commission.

(i) Affidavits of non-disclosure executed regarding an inspection or informal (undocketed) complaint shall be filed in the docket that granted the wind energy facility or wind energy facility expansion applicant its permit to construct, operate, or redevelop the facility or the Arkansas Public Service Commission may open a docket in which the affidavits of non-disclosure may be filed.

(j) A party may request an interim protective order pursuant to Proceedings, 23 CAR § 462 – 401 et seq. for confidential information not covered by this section.

## **Subpart 2. Permit Application**

### **23 CAR § 469 – 201. Permit Required**

A person shall not construct, operate, or redevelop a wind energy facility or wind energy facility expansion in this state without first having obtained a permit to construct, operate, or redevelop a wind energy facility or wind energy facility expansion from the Arkansas Public Service Commission.

### **23 CAR § 469 – 202. Permit Application and Requirements**

(a) A permit application shall be submitted in accordance with this part and the Rules of Practice and Procedure, 23 CAR pt. 462. To the extent applicable, an application may also simultaneously address the requirements under Arkansas Code § 23-18-501 et seq. or Arkansas Code § 23-3-201 et seq.

| (b) Each permit application shall include:

- (1) The applicant's exact name as registered with the Arkansas Secretary of State; physical and mailing addresses; phone number; email address; and company website address;
- (2) Unless already on file with the Arkansas Public Service Commission, a copy of the articles of partnership or a certified copy of the Articles of Incorporation or other articles of organization. A copy of the Certificate of Authority of a Foreign Corporation shall be included unless incorporated under Arkansas law;
- (3) A copy of the written determination of no hazard by the Federal Aviation Administration pursuant to Arkansas Code § 23-18-~~1307~~1407;
- (4) A copy of the development and management plan pursuant to Arkansas Code § 23-18-~~1307~~1407;
- (5) Information demonstrating that the insurance requirements of Arkansas Code § 23-18-~~1309~~1409 have been or will be met before commencement of construction;
- (6) Information demonstrating that the financial security requirements of Arkansas Code § 23-18-~~1308~~1408 have been or will be met before commencement of construction;
- (7) A demonstration that the construction, operation, or redevelopment of a proposed wind energy facility or wind energy facility expansion will meet the minimum requirements established in Arkansas Code § 23-18-~~1306~~1406 and subpart 3 of this part;

(8) A copy of the Environmental Impact Assessment conducted pursuant to Arkansas Code § 23-18-~~1306~~1406.

(9) Information demonstrating that the acoustics requirements of Arkansas Code § 23-18-~~1306~~1406 have been or will be met before commencement of construction;

(10) Copies of all covenants, easements, or similar documentation from the abutting landowners providing access to wind sufficient for the adequate operation of the proposed wind energy facility or wind energy facility expansion, unless adequate accessibility to the wind is provided on the site; and

(11) Information demonstrating that the applicant has submitted the information required under Arkansas Code § 23-18-~~1304~~1404(f) to the Oil and Gas Commission and has obtained approval or conditional approval from the Oil and Gas Commission under Arkansas Code § 23-18-~~1304~~1404(f), if applicable.

(c) Each permit application shall be accompanied by proof of service by certified mail of a copy of the application on:

(1) A person listed in Arkansas Code § 23-18-513;

(2) The Department of Parks, Heritage, and Tourism;

(3) The circuit clerk of each county in which the proposed wind energy facility or wind energy facility expansion will be located;

(4) Any landowner and residents located within four (4) miles of the proposed location of the wind energy facility or wind energy facility expansion;

(5) All public libraries in each county in which the proposed wind energy facility or wind energy facility expansion is to be or may be located; and

(6) All operators or lessees of oil and gas leases in the locations described in Arkansas Code § 23-18-~~1305~~1405(e), if applicable.

(d) Each permit application shall be accompanied by payment of an initial filing fee of \$2,500.

(e) After a permit has been granted by the Arkansas Public Service Commission, but at least thirty (30) days before the applicant has commenced construction of the wind energy facility or wind energy facility expansion, the applicant shall file in the same docket in which it received its permit the following documents:

(1) A copy of the insurance policy pursuant to Arkansas Code § 23-18-~~1309~~1409(a).

(2) A cost estimate for the decommissioning and removal of the wind energy facility or wind energy facility expansion and a copy of financial security pursuant to Arkansas Code § 23-18-~~1308~~1408(b); and

(3) A copy of the acoustics expert report pursuant to Arkansas Code § 23-18-~~1306~~1406(c).

(f) Once the Arkansas Public Service Commission has granted a permit to an applicant, the agency shall have the right to suspend or revoke the permit for non-compliance with the Arkansas Wind Energy Development Act, this part, and any other requirements contained with the permit. If the applicant seeks to restore its permit, the applicant shall file a renewal application that complies with subsections (b), (c), and (d) of this section.

### **23 CAR § 469 – 203. Notice**

(a) Notice of the wind energy facility or wind energy facility expansion permit application shall be given by the applicant as required by Arkansas Code § 23-18-~~1305~~1405 and in the following manner, unless the Arkansas Public Service Commission otherwise provides.

(1) By publication in a newspaper of substantial circulation in each market within which the applicant intends to operate, once per week for two (2)

consecutive weeks within the thirty (30) days before filing the application  
in accordance with Arkansas Code § 23-18-~~1305~~1405 (d); and

(2) By publication on the applicant's website or any other form of electronic application controlled by the applicant, or both.

(b) Notice shall include at a minimum a brief description of the permit application and the ability to intervene or comment on the application in accordance with the Rules of Practice and Procedure, 23 CAR pt. 462 in addition to the requirements of Arkansas Code § 23-18-~~1305~~1405(b).

### **23 CAR § 469 – 204. Basis for Denial**

The application for a permit may be denied if the applicant fails to demonstrate to the Arkansas Public Service Commission's satisfaction that the information, procedures, and methods provided by the applicant in response to these rules will ensure statutory compliance, or for any other just cause as determined pursuant to the Arkansas Public Service Commission's authority.

### **Subpart 3. Minimum Requirements**

#### **23 CAR § 469 – 301. Installation**

(a) In addition to meeting the minimum requirements detailed in Arkansas Code § 23-18-~~1306~~1406, an applicant also shall meet the following wind energy facility or wind energy facility expansion installation requirements:

(1) The distance from any tower support base to any tower support base of another wind energy facility under other ownership shall be a minimum of five (5) rotor diameter distances figured by the size of the largest rotor;

(2) The wind energy facility operation shall not cause interference to the radio, television, or internet reception on any adjoining property; and

(3) To limit climbing access to the tower, a fence that is a minimum of six (6) feet high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more less than twelve (12) feet from the ground, or the tower utilizes an internal climbing structure that is only accessible through a locked portal.

### **23 CAR § 469 – 302. Acoustics Expert Standards**

Pursuant to Arkansas Code § 23-18-~~1306~~1406, all qualified, third-party acoustics experts retained by the applicant shall abide by the American National Standards Institute Standard 12.9 and other applicable American National Standards Institute standards.

### **Subpart 4. Decommissioning**

#### **23 CAR § 469 – 401. Decommissioning Cost Update and Removal**

(a) Pursuant to Arkansas Code § 23-18-1408, an owner is responsible, at the owner's expense, for the proper decommissioning of a wind energy facility.

(b) After a permit has been granted by the Arkansas Public Service Commission, but at least thirty (30) days before the applicant has commenced construction of the wind energy facility or wind energy facility expansion, the applicant shall:

(1) File, in the same docket, a cost estimate for the decommissioning and removal of the wind energy facility, net of any estimated salvage value, produced by a qualified independent party selected by the applicant and at the applicant's expense; and

(2) File, in the same docket and pursuant to Arkansas Code § 23-18-1408(b)(2), proof that the applicant has established financial security in one of the forms provided under Arkansas Code § 23-18-1408(b)(2) for the purpose of decommissioning and removing the wind energy facility and in the amount required under Arkansas Code § 23-18-1408(b)(1) is held by an independent fiduciary at the applicant's expense or held in a means the Arkansas Public Service Commission determines will satisfy the requirements of the statute until released by order of the Arkansas Public Service Commission.

(c) In accordance with Arkansas Code § 23-18-~~1308~~1408(e), every five (5) years following the issuance of a permit by the Arkansas Public Service Commission, the applicant shall file information relating to updated estimated decommissioning and removal costs in the same docket in which it received its permit. The Arkansas Public Service Commission, at its own discretion, upon reasonable notice, may

request more frequent updates from the applicant.

## **Subpart 5. Interconnection**

### **23 CAR § 469 – 501. Interconnection with the Grid**

If the operator of a wind energy facility or wind energy facility expansion seeks to interconnect into the grid, the operator shall provide any approved Generation Interconnection Agreement with any relevant Regional Transmission Organization, independent transmission system operator, or similar organization, or with any relevant transmission owner, or reference to any such Federal Energy Regulatory Commission docket in which such Generation Interconnection Agreement was approved. The operator shall provide this information in the same docket in which it received the permit for the wind energy facility or wind energy facility expansion.

## **Subpart 6. Site Visits and Enforcement**

### **23 CAR § 469 – 601. Site Visits**

Employees or agents acting on behalf of the Arkansas Public Service Commission shall have the right to enter the wind energy facility or wind energy facility expansion site upon reasonable notice and during normal business hours to verify ongoing compliance with the Arkansas Wind Energy Development Act, Arkansas Code § 23-18-~~1301~~1401 et seq., this part, and any other permit requirements established by the Arkansas Public Service Commission. Visitors must also adhere to safety requirements, and an employee will need to be present to provide access.

### **23 CAR § 469 – 602. Enforcement**

Compliance with all statutory requirements, this part, and any other permit requirements established by the Arkansas Public Service Commission is required. In addition to such other remedies available under law, the Arkansas Public Service Commission shall conduct enforcement activities in accordance with the Rules of Practice and Procedure, 23 CAR pt. 462.

Stricken language would be deleted from and underlined language would be added to present law.

Act 945 of the Regular Session

Act 945 of the Regular Session

1 State of Arkansas As Engrossed: S3/20/25 H4/15/25

2 95th General Assembly

# A Bill

3 Regular Session, 2025

SENATE BILL 437

4

5 By: Senator Hester

6 By: Representatives Hall, Eaton

7

8

## For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS WIND ENERGY DEVELOPMENT

10 ACT; AND FOR OTHER PURPOSES.

11

12

13

## Subtitle

14

TO CREATE THE ARKANSAS WIND ENERGY

15

DEVELOPMENT ACT.

16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18

19 SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an  
20 additional subchapter to read as follows:

21

22

Subchapter 13 – Arkansas Wind Energy Development Act

23

24

23-18-1301. Title.

25

This subchapter shall be known and may be cited as the "Arkansas Wind  
26 Energy Development Act".

27

28

23-18-1302. Legislative findings and intent.

29

(a) The General Assembly finds that:

30

(1) Arkansas's wind energy resources are an important asset for

31 the:

32

(A) Continued economic growth of Arkansas; and

33

(B) Provision of clean and renewable power to the people

34

of Arkansas and the nation as a whole;

35

(2) Promotion of the development of wind energy resources is

36

important to the economic growth of Arkansas;



1           (3) The conversion of wind energy into power for utility-scale  
2 systems frequently requires large wind energy systems consisting of wind  
3 turbines, electrical substations, electrical lines, and other supporting  
4 systems;

5           (4) The construction, location, and operation of wind energy  
6 facilities can have significant potential impacts on the health, safety, and  
7 welfare of the members of the communities in which the wind energy facilities  
8 are constructed;

9           (5) It is essential to the public interest to minimize any  
10 adverse effect upon the environment and the quality of life of the people of  
11 Arkansas that wind energy facilities might cause;

12           (6) The prudent development of wind energy resources requires  
13 addressing balancing the needs of wind energy facility developers with those  
14 of landowners that provide access to the wind energy resource, including  
15 assurances that:

16                   (A) Wind energy facilities will be properly constructed  
17 and decommissioned; and

18                   (B) The landowners will:

19                           (i) Have access to adequate information to verify  
20 the accuracy of any payments made by wind energy facilities; and

21                           (ii) Be adequately protected against hazards and  
22 accidents that may arise from the wind energy facilities;

23           (7) A wind energy facility, if abandoned or not properly  
24 constructed and maintained, could pose a hazard to the public health, safety,  
25 and welfare of the people of this state through mechanical failures,  
26 electrical hazards, or the release of hazardous substances;

27           (8) In order to protect the public against health and safety  
28 hazards, standards for the safe decommissioning of wind energy facilities  
29 should be established, and assurance of adequate financial resources should  
30 be given so that a wind energy facility can be properly decommissioned at the  
31 end of the wind energy facility's useful life; and

32           (9) A local legislative body should have an opportunity to adopt  
33 local legislation addressing the construction of wind energy facilities  
34 located in its jurisdiction if the local legislation is consistent with this  
35 subchapter and existing federal and state law and does not establish criteria  
36 for the issuance of a local permit that are less restrictive than stated

1 under this subchapter.

2 (b) It is the intent of the General Assembly that this subchapter  
3 shall:

4 (1) Establish the standards and criteria for permitting and  
5 regulating wind energy facilities; and

6 (2) Promote, preserve, and protect the public peace, health,  
7 safety, and welfare through effective permitting and regulation of wind  
8 energy facilities.

9

10 23-18-1303. Definitions.

11 As used in this subchapter:

12 (1) "Abandonment" means the failure to generate electricity in  
13 commercial quantities for a period of one hundred eighty (180) consecutive  
14 days unless the termination of electricity was:

15 (A) Mandated by state or federal law; or

16 (B) Authorized by the Arkansas Public Service Commission;

17 (2)(A) "Commercial quantities" means an amount of electrical  
18 energy sufficient to sell or use off-site from a wind energy facility.

19 (B) "Commercial quantities" does not include amounts of  
20 electrical energy only used for the maintenance or testing of the wind energy  
21 facility or components of the wind energy facility;

22 (3)(A) "Construct" means the activity of clearing land,  
23 excavation, relocation of utilities, a wind energy facility expansion, or  
24 other action that would adversely affect the natural environment of the  
25 proposed site.

26 (B) "Construct" does not include the activity of:

27 (i) An erection of a meteorological tower;

28 (ii) An environmental assessment;

29 (iii) A survey;

30 (iv) Any necessary borings to ascertain foundation  
31 conditions;

32 (v) Any preliminary engineering; or

33 (vi) Any other activities associated with an  
34 assessment of development of wind resources on a given parcel of property;

35 (4) "Local government" means:

36 (A) A county;

- 1                   (B) A city of the first class or city of the second class;  
2                   (C) An incorporated town; or  
3                   (D) Any other political subdivision of this state;  
4                   (5) "Local legislation" means:  
5                   (A) An ordinance enacted by a local legislative body;  
6                   (B) A resolution passed by a local legislative body;  
7                   (C) A motion made by a local legislative body;  
8                   (D) An amendment adopted by a local legislative body; or  
9                   (E) A rule or regulation promulgated by a local legislative  
10 body;  
11                   (6) "Local legislative body" means the governing body of a local  
12 government;  
13                   (7) "Nonparticipating landowner" means a landowner that is not  
14 under a lease or other property agreement with the owner or operator of a wind  
15 energy facility;  
16                   (8)(A) "Operate" means an activity associated with the management,  
17 operation, and maintenance of a completed wind energy facility.  
18                   (B) "Operate" includes without limitation installing or  
19 improving a wind energy facility;  
20                   (9) "Operator" means a person that operates a wind energy facility;  
21                   (10) "Owner" means a person that has a majority equity interest  
22 in a wind energy facility;  
23                   (11) "Person" means a natural person, corporation, limited  
24 liability company, partnership, joint venture, or other private business  
25 entity;  
26                   (12)(A) "Proprietary information" means commercial or financial  
27 information that:  
28                   (i) Is used directly or indirectly in the business of  
29 an applicant submitting information to a local government under this subchapter;  
30 and  
31                   (ii) Gives an applicant submitting information to a  
32 local government under this subchapter an advantage or an opportunity to obtain  
33 an advantage over a competitor that does not know of, or otherwise use, the  
34 information.  
35                   (B) "Proprietary information" includes trade secrets;  
36                   (13) "Redevelop" means the process of replanning, reconstructing,

1 or redesigning a wind energy facility, including the acquisition, clearance,  
2 development, or disposal, or any combination of these activities, of a wind  
3 energy facility;

4 (14)(A) "Transmission facility" means a power cable,  
5 distribution line, or other equipment that delivers electricity from a wind  
6 turbine located in Arkansas to the point of interconnection with a power  
7 distribution grid, long-distance power transmission grid, or other facility  
8 by and through which the electricity is distributed or transmitted to one (1)  
9 or more customers.

10 (B) "Transmission facility" does not include distribution,  
11 transmission, or other facilities that are located beyond the point of  
12 interconnection with the power distribution grid or transmission grid;

13 (15) "Under development" means:

14 (1) Executed land leases;

15 (2) Commenced necessary state and federal studies related  
16 to construction of a wind energy facility; or

17 (3) Commenced construction of a wind energy facility;

18 (16) "Useful life" means the amount of time during which a wind  
19 energy facility is generating electricity in commercial quantities;

20 (17)(A) "Wind energy facility" means an electrical energy  
21 generation facility consisting of one (1) or more wind turbines under common  
22 ownership or operating control, that cumulatively, with any other wind energy  
23 facility:

24 (i) Has a rated capacity of five megawatts (5 MW) or  
25 more of electrical energy; and

26 (ii) Is more than two hundred feet (200') in height.

27 (B) "Wind energy facility" includes turbines, towers,  
28 buildings, transmission facilities, meteorological towers, transformers,  
29 control systems, and other associated facilities used to support the  
30 operation of the wind energy facility.

31 (C) "Wind energy facility" does not include equipment that  
32 when installed in connection with a dwelling transmits or uses wind energy to  
33 produce electrical energy in a useful form for residential purposes and is less  
34 than two hundred feet (200') in total height;

35 (18) "Wind energy facility expansion" means an activity that:

36 (A) Adds or substantially modifies a wind energy facility,

1 including without limitation increasing the height or the number of the wind  
2 turbines, transmission facilities, or other equipment; or

3 (B) Increases the environmental footprint of a wind energy  
4 facility; and

5 (19)(A) "Wind turbine" means a wind energy conversion system that  
6 converts wind energy into electricity using a wind turbine generator.

7 (B) "Wind turbine" includes a turbine, blade, tower, base,  
8 and pad transformer, if any.

9  
10 23-18-1304. Permit required.

11 (a)(1) A person shall not construct, operate, or redevelop a wind  
12 energy facility or wind energy facility expansion in this state unless a  
13 permit is obtained under this subchapter.

14 (2) Before a person constructs, operates, or redevelops a wind  
15 energy facility or wind energy facility expansion in this state, the person  
16 shall obtain:

17 (A) A permit for the construction, operation, or  
18 redevelopment from the Arkansas Public Service Commission; and

19 (B) If a local government has adopted local legislation  
20 addressing the construction or expansion of a wind energy facility located in  
21 the jurisdiction of the local government, a permit from the local legislative  
22 body.

23 (b) The commission shall establish the application procedure for a  
24 permit to construct, operate, or redevelop a wind energy facility or a wind  
25 energy facility expansion.

26 (c) The issuance of a permit under this subchapter is contingent on  
27 compliance with this subchapter and other applicable state laws.

28 (d) Subject to the approval of the commission, a permit issued under  
29 this subchapter may be transferred to a person that agrees to comply with the  
30 terms of the permit.

31 (e) An initial filing fee of two thousand five hundred dollars (\$2,500)  
32 shall accompany each application for a permit.

33 (f) An application for a permit shall be accompanied by proof of service  
34 of the written notice under § 23-18-1305.

35  
36 23-18-1305. Service – Notice requirements.

1           (a)(1) An applicant for a permit for the construction, operation, or  
2 redevelopment of a wind energy facility or a wind energy facility expansion  
3 shall provide a copy of the application as written notice to:

4                   (A) A person listed in § 23-18-513;

5                   (B) The Department of Parks, Heritage, and Tourism;

6                   (C) The circuit clerk of each county in which the proposed  
7 wind energy facility will be located;

8                   (D) Any landowner and residents located within four (4)  
9 miles of the proposed location of the wind energy facility or wind energy  
10 facility expansion; and

11                   (E) All public libraries in each county in which the  
12 proposed wind energy facility or wind energy facility expansion is to be or  
13 may be located for review by the public.

14                   (2) The Arkansas Public Service Commission shall prescribe by  
15 rule the form and submittal requirements of the written notice required under  
16 subdivision (a)(1) of this section.

17           (b) The written notice required under subdivision (a)(1) of this  
18 section shall include:

19                   (1) A complete description of the wind energy facility,  
20 including the number and size of the wind turbines;

21                   (2) A map showing the locations of all proposed wind energy  
22 facilities;

23                   (3) The proposed timeline for construction and operation of the  
24 wind energy facility; and

25                   (4) A list of locations where the application is available for  
26 review by the public.

27           (c) The written notice required under subdivision (a)(1) of this  
28 section shall be:

29                   (1) Mailed by certified mail; and

30                   (2) Directed to the address of the landowner of the real  
31 property as it appears on the records in the office of the county sheriff or  
32 county tax assessor for the mailing of statements for taxes as provided in §  
33 26-35-705.

34           (d) An application for a permit shall be accompanied by proof that  
35 notice was provided to persons residing in the local government entitled to  
36 receive notice under § 23-18-513 by publication in a newspaper having

1 substantial circulation in the local government of:

2 (1) A summary of the application for a permit;

3 (2) A statement of the date on or about which the application is  
4 to be filed;

5 (3) The locations at which a copy of the application is  
6 available for review by the public; and

7 (4) The date, time, and location of the public hearings required  
8 in subsection (h) of this section.

9 (e)(1) An application for a permit shall be accompanied by proof that  
10 the applicant has served a copy of the written notice by certified mail to:

11 (A) An operator, as reflected in the records of the Oil  
12 and Gas Commission, that is conducting oil and gas operations upon any part  
13 of the surface estate on which the applicant intends to construct the wind  
14 energy facility or the wind energy facility expansion;

15 (B) An operator, as reflected in the records of the Oil  
16 and Gas Commission, of an unspaced unit, or a unit created by order of the  
17 Oil and Gas Commission, that is conducting oil and gas operations for the  
18 unspaced unit where any part of the unit area is within the geographical  
19 boundaries of the surface estate on which the applicant intends to construct  
20 the wind energy facility or wind energy facility expansion; and

21 (C) As to tracts of land not described in subdivisions  
22 (e)(1)(A) and (B) of this section on which the applicant intends to construct  
23 a wind energy facility or wind energy facility expansion, all lessees of oil  
24 and gas leases covering the mineral estate underlying any part of the tracts  
25 of land that are filed of record with the circuit clerk in the county where  
26 the tracts are located and whose primary term has not expired.

27 (2) The service of written notice required under subdivision  
28 (e)(1) of this section shall contain:

29 (A) A map or plat of the proposed location, with  
30 sufficient specificity of the elements of the wind energy facility to be  
31 located on the local government section that includes any part of the tracts  
32 of land described in subdivisions (e)(1)(A) and (B) of this section;

33 (B) The approximate date that the applicant proposes to  
34 commence construction of the wind energy facility or the wind energy facility  
35 expansion; and

36 (C)(i) The return address of the applicant and a statement

1 that the recipient of the notice, within thirty (30) days of receipt, is  
2 required to provide the applicant with site and operational and  
3 infrastructure information with sufficient specificity to facilitate the safe  
4 construction and operation of a wind energy facility or a wind energy  
5 facility expansion.

6 (ii) The information required under subdivision  
7 (e)(2)(C)(i) of this section shall include American Land Title Association  
8 surveys of existing subsurface and surface improvements on the real property,  
9 if any, as well as other technical specifications for existing improvements,  
10 including without limitation pipe size, material, capacity, and depth.

11 (f)(1) As a condition to the issuance of a permit, an applicant is  
12 required to submit to the Oil and Gas Commission:

13 (A) The information provided under subdivision  
14 (e)(2)(C)(i) of this section; and

15 (B) A copy of the written notice required under  
16 subdivision (a)(1) of this section.

17 (2) The applicant shall obtain approval or conditional approval  
18 from the Oil and Gas Commission.

19 (g) If the address of a party entitled to notice under this section  
20 cannot be ascertained or the notice cannot be delivered after a reasonable  
21 effort to obtain the information has been made, then an affidavit attesting  
22 to the efforts to locate the party shall be placed in the records of the  
23 circuit clerk where the surface estate is located.

24 (h)(1) Within sixty (60) days of the publication of the notice  
25 required under subsection (d) of this section, the applicant shall conduct a  
26 public hearing in each county in which the proposed wind energy facility is  
27 to be constructed or expanded.

28 (2) At the public hearing under subdivision (h)(1) of this  
29 section, the applicant shall:

30 (A) Provide copies of the notice required under  
31 subdivision (a)(1) of this section;

32 (B) Be prepared to discuss the contents of the application  
33 for a permit; and

34 (C) Provide substantive responses to questions asked by  
35 members of the public regarding the application for a permit.

36

1 23-18-1306. Minimum requirements.

2 (a) The Arkansas Public Service Commission shall require that to  
3 receive a permit for the construction, operation, or redevelopment of a wind  
4 energy facility or a wind energy facility expansion, the owner shall meet the  
5 following minimum requirements:

6 (1) The minimum setback for the base of any wind turbine of a  
7 wind energy facility from a nonparticipating landowner's property line shall  
8 be equal to the greater of:

9 (A) Three and five-tenths (3.5) times the total height of  
10 the wind turbine as measured from the ground at its base to the maximum  
11 height of the blade tip; and

12 (B)(i) Except as provided in subdivision (a)(1)(B)(ii) of  
13 this section, two thousand five hundred feet (2,500').

14 (ii) A nonparticipating landowner may elect to sign  
15 a waiver to allow a wind turbine or group of wind turbines of a wind energy  
16 facility to be placed up to one and one-tenth (1.1) times the total height of  
17 the wind turbine as measured from the ground at its base to the maximum  
18 height of the blade tip from the nonparticipating landowner's property line;  
19 and

20 (2) The minimum setback for the base of a wind turbine of a wind  
21 energy facility shall be one (1) mile from any of the following places  
22 existing at the time the application for the permit is filed:

23 (A) A public or private school;

24 (B) A hospital;

25 (C) A nursing home facility;

26 (D) A church;

27 (E) The limits of a city or town;

28 (F) A state or federal park; and

29 (G) A public airport.

30 (b)(1) Except as provided in subdivision (b)(2)(A) of this section, an  
31 application shall be accompanied by an environmental impact assessment  
32 conducted by a qualified, third-party expert and approved by the Arkansas  
33 Public Service Commission, paid for by the applicant, of the potential  
34 adverse impacts within four (4) miles of the perimeter of the wind energy  
35 facility or wind energy facility expansion.

36 (2)(A) An environmental impact assessment required under

1 subdivision (b)(1) of this section shall not be required if an environmental  
2 review of the wind energy facility or any portion of the wind energy facility  
3 is required under the National Environmental Policy Act of 1969, 42 U.S.C. §  
4 4321 et seq., as it existed on January 1, 2025, that includes public input, a  
5 public hearing, an environmental impact statement, and a viewshed analysis.

6 (B) The environmental impact assessment under subdivision  
7 (b)(2)(A) of this section shall include without limitation a study of the:

8 (i) Economic impacts to individuals, real property  
9 values, tourism, and agriculture;

10 (ii) Assessment for compliance with state and  
11 national fire, building, and electrical codes;

12 (iii) A wildlife impact assessment, including  
13 without limitation a study of the potential adverse impacts to:

14 (a) Wildlife refuges;

15 (b) Preserves and management areas;

16 (c) Areas that provide habitat for threatened  
17 or endangered species;

18 (d) Primary nursery areas designated by the  
19 Arkansas Game and Fish Commission; and

20 (e) Critical fisheries habitats identified  
21 under applicable state or federal law;

22 (iv) Viewshed analysis for:

23 (a) State and federal parks and forests;

24 (b) Historic and cultural sites;

25 (c) Public parks and recreation areas; and

26 (d) Private conservation land;

27 (v) Hydrogeological assessment of areas of water  
28 within a minimum of four (4) miles of the perimeter of the wind energy  
29 facility or wind energy facility expansion, including:

30 (a) Bodies of water;

31 (b) Flowing water sources;

32 (c) Stormwater runoff;

33 (d) Wetlands;

34 (e) Groundwater;

35 (f) Aquifers; and

36 (g) Private wells;

1 (vi)(a) Risk assessment and mitigation  
2 recommendations for shadow flicker and incidents, including wind turbine  
3 fires, structural damage or failure, ice throw, blade shear, and hazardous  
4 material spills.

5 (b) Except as provided in subdivision  
6 (b)(2)(B)(vi)(c) of this section, shadow flicker shall not exceed thirty (30)  
7 hours annually as verified in an assessment prepared according to  
8 professional standards.

9 (c) A nonparticipating landowner may elect to  
10 sign a written waiver to allow ice throw, blade shear, or shadow flicker from  
11 any wind turbine or group of wind turbines on the nonparticipating  
12 landowner's property;

13 (vii) Risk assessment for civil air navigation,  
14 military or law enforcement routes or training exercises, emergency medical  
15 flights, radar operations, and mobile phone services; and

16 (viii) Risk assessment for lighting requirements  
17 beyond that which may be required by the Federal Aviation Administration,  
18 including the requirement that the wind energy facility be equipped with a  
19 Federal Aviation Administration-approved aircraft detection lighting system.

20 (c)(1) Except during an event of inclement weather that prevents the  
21 operator of a wind energy facility from controlling the noise level of one  
22 (1) or more wind turbines that are part of the wind energy facility, any wind  
23 turbine or group of wind turbines of a wind energy facility shall not exceed  
24 an emission limit at a nonparticipating landowner's dwelling of thirty-five  
25 A-weighted decibels (35 dBA) and forty-five A-weighted decibels (45 dBA) at a  
26 nonparticipating landowner's property line as determined by a qualified,  
27 third-party acoustics expert according to rules adopted by the Arkansas  
28 Public Service Commission based on the American National Standards Institute  
29 Standard 12.9 and other applicable American National Standards Institute  
30 standards.

31 (2) Before construction of a wind energy facility or wind energy  
32 facility expansion, a qualified, third-party acoustics expert, selected and  
33 paid for by the applicant, shall make a baseline determination of  
34 preconstruction noise levels, including modeling and enforcement.

35 (3) A nonparticipating landowner may elect to sign a written  
36 waiver to allow noise levels greater than those stated under subdivision

1 (c)(1) of this section from any wind turbine or group of wind turbines on the  
2 nonparticipating landowner's property.

3  
4 23-18-1307. Application requirements.

5 (a) An application for a permit for the construction, operation, or  
6 redevelopment of a wind energy facility or a wind energy facility expansion  
7 shall include:

8 (1) A written determination of no hazard by the Federal Aviation  
9 Administration; and

10 (2) A development and management plan.

11 (b) The development and management plan under subdivision (a)(2) of  
12 this section shall address:

13 (1) Physical characteristics of the wind energy facility to  
14 protect the health and safety of the public;

15 (2) Electric standards that meet all national electric codes;

16 (3) Construction, operation, and maintenance standards that  
17 comply with all building codes and ensure that the wind energy facility is  
18 maintained in a manner that protects the public and complies with all  
19 requirements of this subchapter; and

20 (4)(A) Emergency procedures.

21 (B) The emergency procedures under this subdivision (b)(4)  
22 shall include:

23 (i) A plan to provide notice to the Arkansas Public  
24 Service Commission and local emergency agencies within twenty-four (24) hours  
25 of an emergency;

26 (ii) A plan to address an emergency situation,  
27 including written procedures that provide for shutting down the wind energy  
28 facility or a portion of the wind energy facility, as appropriate;

29 (iii) An emergency evacuation plan for an area  
30 within two (2) miles of a wind energy facility, including the location of  
31 alternate landing zones for emergency services aircraft;

32 (iv) An emergency plan shall be reviewed at least  
33 annually by the owner or operator of the wind energy facility in  
34 collaboration with the fire service, law enforcement, and other appropriate  
35 first responders to update and improve the emergency plan as needed;

36 (v) A plan for the owner to distribute current

1 copies of the emergency plan to the local legislative body and fire service,  
2 law enforcement, and other appropriate first responders as identified by the  
3 local government;

4 (vi) A plan, if a local government requires, for the  
5 owner, at the owner's expense, to provide annual training for fire service,  
6 law enforcement, and other appropriate first responders regarding responding  
7 to a wind energy facility emergency until the wind energy facility has been  
8 decommissioned;

9 (vii) A requirement that the owner shall furnish its  
10 operator, supervisors, and employees who are responsible for emergency action  
11 a copy of the current edition of the emergency procedures established under  
12 this section to ensure compliance with the procedures;

13 (viii) A requirement that the owner shall train the  
14 appropriate operating personnel to ensure the personnel has knowledge of the  
15 emergency procedures and verify that the training is effective; and

16 (ix) A plan that as soon as possible after the end  
17 of a wind energy facility emergency, the owner review employee activities to  
18 determine whether or not the emergency procedures were effectively followed.

19  
20 23-18-1308. Decommissioning requirements.

21 (a) An owner is responsible, at the owner's expense, for the proper  
22 decommissioning of a wind energy facility.

23 (b)(1) Before the start of construction of a wind energy facility, the  
24 applicant for a permit for the construction or operation of the wind energy  
25 facility or wind energy facility expansion shall establish financial security  
26 in the amount of one hundred percent (100%) of the estimate of the total cost  
27 to decommission and remove the wind energy facility as determined by an  
28 independent consultant, selected and paid for by the applicant.

29 (2) To establish financial security under subdivision (b)(1) of  
30 this section, the applicant shall file with the Arkansas Public Service  
31 Commission a surety bond, collateral bond, irrevocable letter of credit,  
32 parent guaranty, cash, cashier's check, certificate of deposit, bank joint  
33 custody receipt, or other approved negotiated instrument, or any combination  
34 of the items listed in this subdivision (b)(2), in the amount required by  
35 subdivision (b)(1) of this section.

36 (c) A wind energy facility shall be decommissioned or removed if:

1           (1) A wind turbine of a wind energy facility ceases to generate  
2 electricity for one hundred eighty (180) continuous days, unless:

3           (A) The termination of electricity was mandated by state  
4 or federal law; or

5           (B)(i) As authorized by the commission.

6           (ii) Two (2) extensions may be allowed by the  
7 commission for one-hundred-eighty-day periods at a time if the wind energy  
8 facility continues to be maintained in proper working order; or

9           (2)(A) Any wind turbine or group of wind turbines of a wind  
10 energy facility violates the noise level restrictions under § 23-18-  
11 1306(c)(1), unless the wind turbine or group of wind turbines is brought into  
12 compliance within one hundred eighty (180) days of the violation.

13           (B) One (1) extension under subdivision (c)(2)(A) of this  
14 section is permitted.

15           (d) Within twelve (12) months following the decommissioning of a wind  
16 energy facility or wind energy facility expansion, the property shall be  
17 restored to its original condition before commencement of activities on the  
18 site.

19           (e) Not less than one (1) time every five (5) years following the  
20 issuance of the permit by the commission, the commission may require the  
21 owner to:

22           (1) Update the estimated costs of decommissioning and removal;

23           (2) File the new estimate with the commission; and

24           (3) Provide a surety bond, collateral bond, irrevocable letter  
25 of credit, parent guaranty, cash, cashier's check, certificate of deposit,  
26 bank joint custody receipt, or other approved negotiated instrument, or any  
27 combination of the items listed in this subdivision (e)(3), in the updated  
28 amount.

29           (f) Proper decommissioning of a wind energy facility shall include:

30           (1) Removal of wind turbines, towers, buildings, cabling,  
31 electrical components, foundations, and any other associated facilities, to a  
32 depth of forty-eight (48) inches below grade in the ground; and

33           (2)(A) Except as provided in subdivision (h)(2)(B) of this  
34 section, disturbed earth being graded and reseeded or otherwise restored to  
35 substantially the same physical condition as it existed before the  
36 construction of the wind energy facility by the owner.

1 (B) Replacement of trees that may have been removed during  
2 construction is not required.

3 (g)(1) Decommissioning of a wind energy facility or individual pieces  
4 of commercial wind energy equipment shall be completed by the owner within  
5 twelve (12) months after:

6 (A) Abandonment;

7 (B) The end of the useful life of the commercial wind  
8 energy equipment in the wind energy facility; or

9 (C) Receipt of a notice to decommission or remove under  
10 subsection (c) of this section.

11 (2) If the owner fails to complete the decommissioning within  
12 the period prescribed under subdivision (g)(1) of this section, the  
13 commission shall take such measures as are necessary to complete the  
14 decommissioning.

15 (h) A lease or other agreement between a landowner and an owner may  
16 contain provisions for decommissioning that are more restrictive than those  
17 provided under this section.

18  
19 23-18-1309. Insurance requirements.

20 (a) Before commencing construction of a wind energy facility, the  
21 owner or operator shall obtain and keep in effect, either:

22 (1) A commercial general liability insurance policy with a limit  
23 consistent with prevailing industry standards as determined by the Arkansas  
24 Public Service Commission; or

25 (2) A combination of self-insurance and an excess liability  
26 insurance policy approved by the commission.

27 (b) The owner shall cause the landowner of the real property where the  
28 wind turbine or wind energy facility is located to be named as an additional  
29 insured in the insurance policy.

30 (c)(1) The owner or operator shall deliver to a landowner who has  
31 entered into a lease, easement, or other agreement with the owner a  
32 certificate of insurance evidencing the insurance policy.

33 (2) The landowner shall be given a notice of at least thirty  
34 (30) days before any material modification, cancellation, or termination of  
35 the insurance policy.

36

1 23-18-1310. Applicability.

2 (a) This subchapter does not amend the Arkansas Water and Air  
3 Pollution Control Act, § 8-4-101 et seq.

4 (b) This subchapter does not affect the:

5 (1) Jurisdiction of the Division of Environmental Quality or the  
6 Arkansas Pollution Control and Ecology Commission with respect to water and  
7 air pollution control or other matters within the jurisdiction of the  
8 division or the Arkansas Pollution Control and Ecology Commission;

9 (2) Jurisdiction of the Arkansas State Game and Fish Commission  
10 with respect to the impact on game and fish of the state; and

11 (3) Requirement that a person apply for and obtain a permit from  
12 a state agency or federal entity having jurisdiction over the wind energy  
13 facility or wind energy facility expansion.

14 (c) This subchapter does not apply to a wind energy facility in this  
15 state constructed or which commenced to be constructed on or before September  
16 1, 2024.

17  
18 23-18-1311. Review by a state agency.

19 (a) Upon receipt of an application for a permit for the construction,  
20 operation, or redevelopment of a wind energy facility or a wind energy  
21 facility expansion under this subchapter and other requirements the Arkansas  
22 Public Service Commission may adopt, the staff of the commission shall invite  
23 comments from a state agency entitled to service under § 23-18-513 as to the  
24 adequacy of the application.

25 (b) The invitation to comment under subsection (a) of this section  
26 shall include a notification to a state agency that comments are required to  
27 be received within one hundred twenty (120) days of the date of the mailing  
28 or delivery of the invitation to comment, unless a state agency requests, for  
29 cause, a longer period for consideration.

30 (c)(1) Upon review of the comments, if any, the staff shall determine  
31 whether or not the applicant failed to include or adequately develop any  
32 relevant environmental or economic aspect of the wind energy facility.

33 (2) The commission shall issue a deficiency letter specifying  
34 the deficiencies in the application.

35 (3) The deficiency letter shall be prepared and served upon the  
36 applicant as promptly as possible but no later than twenty (20) days before

1 the date set for a public hearing under § 23-18-1312.

2 (4) The applicant shall promptly respond to any deficiency  
3 letter, and the public hearing shall be deferred unless the applicant has  
4 responded before the public hearing to any deficiency letter.

5  
6 23-18-1312. Public hearing.

7 (a)(1)(A) Upon receipt of an application for a permit for the  
8 construction, operation, or redevelopment of a wind energy facility or a wind  
9 energy facility expansion under this subchapter, the Arkansas Public Service  
10 Commission shall fix a date for the commencement for a public hearing on the  
11 application.

12 (B) The date of the public hearing under subdivision  
13 (a)(1)(A) of this section shall not be earlier than sixty (60) days after the  
14 date set for the receipt of comments from the state agencies under § 23-18-  
15 1311, including any extensions.

16 (2) The testimony presented at the public hearing may be  
17 presented in writing or orally, provided that the commission may make rules  
18 designed to exclude repetitive, redundant, or irrelevant testimony.

19 (3) The Rules of Practice and Procedure of the commission shall  
20 apply to the proceeding.

21 (b)(1) After the public hearing, the commission may deny, grant, or  
22 conditionally grant the permit.

23 (2) A permit shall not be granted if the applicant has not  
24 received a permit for the construction or operation of the wind energy  
25 facility or wind energy facility expansion from a state or federal agency  
26 having jurisdiction over the air, water, and other environmental impacts  
27 associated with a wind energy facility or wind energy facility expansion.

28  
29 23-18-1313. Local legislation.

30 (a)(1) A local legislative body may adopt local legislation addressing  
31 the construction, expansion, operation, or redevelopment of a wind energy  
32 facility located within the jurisdiction of the local government if the local  
33 legislation is consistent with this subchapter and existing federal and state  
34 law.

35 (2) Local legislation shall not establish criteria for the  
36 issuance of a local permit that is less restrictive than those established in

1 this subchapter.

2 (b) A local government that regulates the construction, expansion,  
3 operation, or redevelopment of wind energy facilities and wind energy  
4 facility expansions by local legislation shall furnish a certified copy of  
5 the adopted local legislation to the Arkansas Public Service Commission.

6  
7 23-18-1314. Report to landowners.

8 (a)(1) An owner or operator of a wind turbine or wind energy facility  
9 shall provide a report to a landowner that has entered into a lease,  
10 easement, or other agreement with the owner of a wind energy facility that is  
11 paid based on the amount of electrical energy produced from the conversion of  
12 wind energy.

13 (2) The report required under subdivision (a)(1) of this section  
14 shall:

15 (A) Be provided within ten (10) business days of the  
16 payment to the landowner; and

17 (B) At a minimum, contain:

18 (i) Information reasonably necessary to provide the  
19 landowner with an understanding of the basis for the payment the landowner  
20 received; and

21 (ii) A means of confirming the accuracy of the  
22 information provided under subdivision (a)(2)(B)(i) of this section.

23 (b)(1) A landowner described under subdivision (a)(1) of this section  
24 may inspect the records of the owner or operator to confirm the accuracy of a  
25 payment made to the landowner within the past twenty-four (24) months.

26 (2) One (1) inspection under subdivision (b)(1) of this section  
27 is permitted per calendar year.

28 (c)(1) The owner or operator shall make available within the state all  
29 records, documents, data, and other information, or copies thereof, as are  
30 necessary for a landowner to conduct the inspection specified in subsection  
31 (b) of this section.

32 (2) The records shall be made available in a location and manner  
33 that affords the landowner reasonable access to the records during normal  
34 business hours.

35 (3) The landowner shall be permitted a reasonable length of time  
36 to complete the inspection and shall not cause undue disruption to the

1 operations of the owner or operator during the inspection.

2  
3 23-18-1315. Other applicable local, state, and federal permits, licenses,  
4 or approvals.

5 The issuance of a permit for the construction, operation, or redevelopment  
6 of a wind energy facility or a wind energy facility expansion under this  
7 subchapter does not preclude the need for a person to obtain other local, state,  
8 or federal permits, licenses, or approvals required for a wind energy facility.

9  
10 23-18-1316. Information subject to disclosure.

11 (a) Except as provided in subsection (b) of this section, a permit  
12 application for the construction, operation, or redevelopment of a wind  
13 energy facility or a wind energy facility expansion and documents received by  
14 the Arkansas Public Service Commission or a local government under this  
15 subchapter or documents used by the local legislative body to evaluate the  
16 permit application are subject to disclosure under the Freedom of Information  
17 Act of 1967, § 25-19-101 et seq.

18 (b) Proprietary information contained in a permit application or in  
19 documents submitted in support of the permit application to the commission or  
20 local government under this subchapter or documents used by the commission or  
21 local government to evaluate and approve or deny a permit application shall  
22 remain confidential and is not subject to disclosure to the public under this  
23 section, the Freedom of Information Act of 1967, § 25-19-101 et seq., or any  
24 other law.

25  
26 23-18-1317. Federal law.

27 If a provision of this subchapter conflicts with a current federal law,  
28 including promulgated federal regulations, the federal law shall take  
29 precedence over the conflicting provisions of this subchapter.

30  
31 23-18-1318. Exemptions.

32 A wind energy facility project is exempt from this subchapter if the  
33 wind energy facility project is under development as of April 9, 2025.

34  
35 23-18-1319. Rules.

36 (a) The Arkansas Public Service Commission shall promulgate rules to

1 implement and administer this subchapter.

2 (b) Rules that the commission shall promulgate under this subchapter  
3 include without limitation rules relating to:

4 (1) Requirements and terms for a permit for the construction,  
5 operation, or redevelopment of a wind energy facility or a wind energy facility  
6 expansion;

7 (2) Requirements for an application a permit for the construction,  
8 operation, or redevelopment of a wind energy facility or a wind energy facility  
9 expansion;

10 (3) Requirements for a renewal application a permit for the  
11 construction, operation, or redevelopment of a wind energy facility or a wind  
12 energy facility expansion; and

13 (4) The erection, construction, reconstruction, change,  
14 alteration, maintenance, use, operation, and decommissioning of wind energy  
15 facilities, including without limitation the:

16 (A) Interconnection of power lines and with regional  
17 transmission organizations, independent transmission system operators, or  
18 similar organizations; and

19 (B) Establishment of necessary cooperation for site visits  
20 and enforcement investigations.

21  
22 SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Rules.

23 (a) The Arkansas Public Service Commission shall promulgate rules  
24 necessary to implement this act.

25 (b) When adopting the initial rules required under this act, the  
26 commission shall file the final rules with the Secretary of State for  
27 adoption under § 25-15-204(f):

28 (1) On or before January 1, 2026; or

29 (2) If approval under § 10-3-309 has not occurred by January 1,  
30 2026, as soon as practicable after approval under § 10-3-309.

31 (c) The commission shall file the proposed rules with the Legislative  
32 Council under § 10-3-309(c) sufficiently in advance of January 1, 2026, so  
33 that the Legislative Council may consider the rules for approval before  
34 January 1, 2026.

35  
36 APPROVED: 4/21/25