



## **DIVISION OF ENVIRONMENTAL QUALITY**

Sarah Huckabee Sanders  
GOVERNOR

Shane E. Khoury  
SECRETARY

### **PROPOSED AMENDMENT TO APC&EC RULE 36: “TIRE ACCOUNTABILITY PROGRAM”**

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#### **PURPOSE AND AUTHORITY**

The Department of Energy and Environment and the Division of Environmental Quality (“DEQ”) propose this rulemaking in regard to Rule 36: “Tire Accountability Program.” This rulemaking is necessary to amend the current rule to implement new requirements set forth in Act 713 of 2023, which amended Arkansas law regarding the collection and recycling of used tires. The Arkansas Pollution Control and Ecology Commission (“APC&EC” or “Commission”) has general rulemaking authority through Ark. Code Ann. § 8-1-203(b)(1)(A), and specific authority to promulgate amendments to this rule through Ark. Code Ann. § 8-9-414.

#### **BACKGROUND**

APC&EC Rule 36, “Tire Accountability Program,” regulates the collection and recycling of used tires in the State of Arkansas. If not properly disposed of, used tires pose a threat to human health and safety as they are known to host disease transmitting vectors, pose a fire risk, and pose a threat to a safe and healthy environment. The used tire program provides incentives for the collection and recycling of used tires in order to encourage recycling and safe collection and disposal. The program also provides accountability by requiring use of an electronic used tire manifest system and review of business plans of boards charged with collecting used tires.

#### **THE PROPOSED RULE AMENDMENTS**

The proposed rulemaking regarding Rule 36, “Tire Accountability Program,” amends the rule to conform to new requirements which were established in Act 713 of 2023. This act requires that the used tire collection be implemented by four (4) used tire programs. These programs are each governed by an accountability board.

Because of these legislative changes, DEQ will make the following amendments to Rule 36: (1) the rule will be amended to reflect that used tire collection, storage, and recycling will be implemented by four (4) tire programs; (2) each of the four (4) used tire programs will be governed by a tire accountability board; (3) the tire accountability boards and programs may enter into an interlocal agreement; (4) the boards will be required to draft and revise business plans, and if the business plan results in a rate increase, the plan must be approved by the Legislative Council; (5) the tire retailers, tire generators, and tire importers will be subject to the business closure procedures of Ark. Code Ann. § 26-18-1001 et seq.; (6) disposal facilities operated by used tire programs will not be required to pay permit fees or permit transfer fees to the Division of Environmental Quality; (7) other amendments of nomenclature to comply with Act 910 of 2019; and (8) additional non-substantive or clerical revisions are proposed throughout

Rule 36 for consistency and clarity.

### **NECESSITY AND PRACTICAL IMPACT OF RULE AMENDMENTS**

The amendments to Rule 36 are necessary to implement changes in statutory requirements enacted in Act 713 of 2023. The amendments implement the statutory structure for tire accountability boards and the legislative plan for review of board actions. The rule amendments are required in order to fully carry out the legislative intent of the act.