

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF APC&EC RULE 36)
"TIRE ACCOUNTABILITY PROGRAM") DOCKET NO. 24-004-R

**PETITION TO INITIATE RULEMAKING TO APPROVE
AMENDMENTS TO RULE 36, "TIRE ACCOUNTABILITY PROGRAM"**

Comes now, the Department of Energy and Environment, Division of Environmental Quality ("DEQ"), by and through Daniel Pilkington, Senior Attorney, and for its Petition to Initiate Rulemaking to Approve Amendments to Rule 36, "Tire Accountability Program," states:

1. DEQ proposes this rulemaking to approve the amendments to Rule 36, "Tire Accountability Program," as is authorized generally in Ark. Code Ann. § 8-1-203(b)(1)(A), and specifically to amend this rule in Ark. Code Ann. § 8-9-414.

2. DEQ proposes to initiate this rulemaking in order that the Arkansas Pollution Control and Ecology Commission ("APC&EC" or "Commission") can promulgate the Rule 36 amendments, which will update the following provisions of the rule to comply with Act 713 of 2023:

a. The terminology of the rule will be modified throughout to reflect that local management and collection of used tires is vested in four (4) used tire programs; and each of these programs is governed by one of four (4) tire accountability boards;

b. Rule 36.106 will be deleted because tire programs are no longer being administered by inter-district used tire programs, or regional solid waste management boards;

c. Rule 36.201 will be amended to update definitions consistent with Act 713 of 2023;

d. Rule 36.404 and 405 will be amended to require that a business plan or revised business plan that results in a business plan rate increase will be reviewed and approved by the APC&EC and the Legislative Council;

e. Rule 36.407 will be amended to require that the used tire program submit a new business plan by September 1, 2023;

f. Rule 36.502 and 503 will be amended to state that the Arkansas Legislative Audit shall audit the used tire programs pursuant to the requirements of Ark. Code Ann. § 8-9-410(e).

g. Rule 36.806 will be amended to provide that a tire retailer which collects rim removal fees is subject to the business closure procedures under Ark. Code Ann. § 26-18-1001, et. seq.;

h. Rule 36.906 will be amended to provide that each commercial tire generator is subject to the business closure procedures under Ark. Code Ann. § 26-18-1001, et. seq.;

i. Rule 36.1006 will be amended to provide that any person who imports tires into Arkansas will be subject to the business closure procedures under Ark. Code Ann. § 26-18-1001, et. seq.;

j. Rule 36.1109 will be amended to provide that any increase in the tire reimbursement rate be reviewed by the Legislative Council;

k. Rule 36.1113 will be amended to provide that each used-tire program will be audited by the Arkansas Legislative Audit as required by Ark. Code Ann. § 8-9-410(e);

l. Rule 36.1401 will be amended to state that any disposal facility permitted under this chapter and owned by a used tire program will not be required to remit a disposal permit fee to DEQ;

m. Rule 36.1507, 36.1601, and 36.1609 will be amended to provide that used tire programs will not be required to pay initial or annual permit fees, or initial or annual general permit fees, to DEQ;

n. Rule 36.1611 will be amended to provide that used tire programs will not be required to pay a permit transfer fee;

o. Amendments to incorporate changes in nomenclature required by Acts 910 of 2019; and

p. Additional non-substantive or clerical revisions are proposed throughout Rule 36 for consistency and clarity.

3. Daniel Pilkington, Senior Attorney, will be available to answer questions concerning this proposed rulemaking.

4. The following exhibits to this petition are hereby incorporated by reference:

a. Exhibit A: Mark-up version of the proposed new rule;

b. Exhibit B: Governor Approval;

c. Exhibit C: Legislative Questionnaire;

- d. Exhibit D: Financial Impact Statement;
- e. Exhibit E: Economic Impact/Environmental Benefit Analysis; and
- f. Exhibit F: Proposed Minute Order.

WHEREFORE, DEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and initiate rulemaking to promulgate the proposed amendments to Rule 36, "Tire Accountability Program."

Respectfully Submitted,

By: 

Daniel Pilkington, Senior Attorney
Department of Energy and Environment
Division of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72218
(501) 682-0895
daniel.pilkington@arkansas.gov