

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

Arkansas Department of Environmental Quality (ADEQ) by and
through the Arkansas Pollution Control and Ecology Commission

DEPARTMENT/AGENCY Arkansas Department of Environmental Quality (ADEQ) by and through the Arkansas Pollution Control and Ecology Commission (APC&EC)

DIVISION Office of Land Resources (OLR)

DIVISION DIRECTOR Kevin White, Associate Director

CONTACT PERSON Tammie Hynum, Senior Operations Manager

ADDRESS 5301 Northshore Drive, North Little Rock, Arkansas

PHONE NO. 501-682-0831 **FAX NO.** 501-682-0565 **EMAIL** Hynum@adeq.state.ar.us

NAME OF PRESENTER AT COMMITTEE MEETING Tammie Hynum

PRESENTER EMAIL Hynum@adeq.state.ar.us

INSTRUCTIONS

- A. Please make copies of this form for future use.**
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.**
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.**
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:**

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Regulation No. 36: Used Tire Recycling and Accountability Program

2. What is the subject of the proposed rule? APC&EC adopted this emergency rulemaking to provide the framework necessary for ADEQ to transfer the current waste tire program to the new Used Tire Recycling and Accountability Program pursuant to Act 317 of 2017, the Used Tire Recycling and Accountability Act, Ark. Code Ann. § 8-9-401 et seq.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No

If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes No

Not applicable because this is an emergency rulemaking under the law and regulations that authorize APC&EC to file emergency rulemakings –Ark. Code Ann. § 8-4-202(e) and APC&EC Reg. 8.807. (The APC&EC is exempt from the definition of “agency” under the Administrative Procedures Act, Ark. Code Ann. § 25-15-202(2)(C).)

If yes, what is the effective date of the emergency rule? September 15, 2017

When does the emergency rule expire? One hundred eighty (180) days after Legislative Council approval.

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation.

The proposed new emergency regulation includes the following necessary for the transfer of the current waste tire program to the new Used Tire Recycling and Accountability Program by ADEQ on January 1, 2018:

- General overview, purpose, legislative intent, authority, and applicability related to the Used Tire Recycling and Accountability Program;
- Definitions related to the administration of the Used Tire Recycling and Accountability Program;
- Electronic uniform used tire manifest system (e-manifest system) purpose and administration;
- Used tire program accountability and business plans administration;
- Administrative procedures for tire generators;
- Collection of rim removal fees, commercial generator fees, and import fees and submission to the Department of Finance and Administration and the Arkansas Department of Environmental Quality for deposit into the Used Tire Recycling Fund; and
- Disbursements from the Used Tire Recycling Fund.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Act 317 of 2017, the Used Tire Recycling and Accountability Act, Ark. Code Ann. § 8-9-401 et seq.

7. What is the purpose of this proposed rule? Why is it necessary?

Pursuant to Arkansas Pollution Control and Ecology Commission Regulation No. 8.807, the Arkansas Department of Environmental Quality (ADEQ) seeks an emergency rulemaking, effective for one hundred eighty (180) days, because transfer of the current waste tire program to the new Used Tire Recycling and Accountability Program must begin on January 1, 2018, and permanent rulemaking cannot be completed before this date. Failure to implement the new regulation will cause imminent peril to the public health and general welfare of Arkansans because the regulation provides essential information for the implementation and administration of the new program, to include the methods for disbursing essential funding to regional solid waste management boards for the management of used tires, the prevention of illegal tire dumping, and the abatement of waste tire sites.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

www.adeq.state.ar.us/regs/drafts/reg36/17-004-R/

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

Because this is an emergency rulemaking, there is not a traditional public comment period. However, the draft regulation was filed with the APC&EC on August 16, 2017, and the APC&EC held its meeting on August 25, 2017. Public comments were allowed at this meeting, but there were none on this new regulation before the APC&EC adopted it that day.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

September 15, 2017

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. The Arkansas Pollution Control and Ecology Commission (APC&EC) is exempt from the definition of "agency" under the Administrative Procedure Act. (See Ark. Code Ann. § 25-15-202(2)(C)). However, laws concerning the promulgation of regulations by the APC&EC do require public notice, a copy is attached.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). The Arkansas Pollution Control and Ecology Commission (APC&EC) is exempt from the definition of "agency" under the Administrative Procedure Act. (See Ark. Code Ann. § 25-15-202(2)(C)). Filing with the Secretary of State does not occur until after legislative review.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. None anticipated.