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Arkansas Used Tire Recycling and Accountability Act: Arkansas Department of Energy & Environment - Division of Environmental Requests Approval of Four Used Tire Program Business Plans

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Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) Chief Administrator, Environment, Caleb J. Osborne, submitted a January 12th request to the Arkansas Pollution Control & Ecology Commission (“Commission”) pursuant to the agency’s implementation of the Used Tire Recycling and Accountability Act.

The Chief Administrator asks that the Commission approve new reimbursement rates justified by approved business plans submitted by four regional used tire programs.

Arkansas has had legislation in place since 1991 to attempt to address the hauling, storage, recycling, and disposal of waste tires.

In 2017 the Arkansas General Assembly enacted Act 317 denominated the Used Tire Recycling and Accountability Program (“TAP”). This legislation amended the previous statutory tire law whose objective is to implement an accountable, effective, and efficient used tire program for recyclable tires, waste tires, and used tires removed for resale.

DEQ implements TAP pursuant to Arkansas Pollution Control & Ecology Commission Rule 36.

Certain fees are collected on tires removed from the rim. The Arkansas Legislative Audit notes that the majority of collections over the past five years have been obtained by tire retailers on new tires. Tire retailers pay the fees collected to the Arkansas Department of Finance and Administration on a monthly basis. See Report I.D. SPSR00622 (January 9, 2022).

Act 713 of 2023 amended the law to create four new Used Tire Programs. It also required the establishment of new reimbursement rates justified by approved business plans. Such rates are required to be approved by DEQ, the Commission, and the Arkansas Legislative Council.

Chief Administrator Osborne’s January 12th letter to the Commission notes DEQ’s review of the four business plans and approval of each. He also notes that in approving each of the submitted business plans they include proposed rates exceeding \$2.31. This is the amount stated to be identified by the Arkansas

Legislative Audit as the remaining available funds after statutorily authorized fees are collected by the Arkansas Department of Finance and Administration, tire retailers, and DEQ. The letter states in part:

. . . Even with DEQ's voluntary forbearance of certain program administration fees and electing not to undertake abatement projects, the \$2.57 amount that would remain is insufficient to ensure adequate funds remain available for full reimbursement for Used Tire Programs.

As a result, a pro rata payment methodology is projected to be potentially required as early as late calendar year 2024 or early 2025.

The four Arkansas tire programs include:

- Tire Program 1

Roxie Hall, Mayor, City of Ozark Robyn Reed, Executive Director

- Tire Program 2

Barry Hyde, Pulaski County Judge Craig Douglass, Executive Director

- Tire Program 3

Darryl Mahoney, Garland County Judge Mitch Noble, Executive Director

- Tire Program 4

Eddie Best, Arkansas County Judge Shane Knight, Executive Director

A link to the Chief Administrator's letter and the attached approved business plans can be found [here](#).