

1 **SENATE FLOOR VERSION**

2 April 11, 2011

3 ENGROSSED HOUSE  
4 BILL NO. 1939

By: Jackson and Billy of the  
House

5 and

6 Johnson (Rob) and Myers of  
7 the Senate

8  
9 An Act relating to environment and natural resources;  
10 amending 27A O.S. 2001, Sections 2-11-401, 2-11-402,  
11 as last amended by Section 1, Chapter 230, O.S.L.  
12 2005, and as renumbered by Section 8, Chapter 230,  
13 O.S.L. 2005, 2-11-403, as renumbered by Section 9,  
14 Chapter 230, O.S.L. 2005, and as last amended by  
15 Section 1, Chapter 194, O.S.L. 2010, 2-11-404, as  
16 renumbered by Section 10, Chapter 230, O.S.L. 2005,  
17 2-11-405, as renumbered by Section 11, Chapter 230,  
18 O.S.L. 2005, and as last amended by Section 2,  
19 Chapter 194, O.S.L. 2010, 2-11-405.1, as renumbered  
20 by Section 12, Chapter 230, O.S.L. 2005, 2-11-409, as  
21 renumbered by Section 13, Chapter 230, O.S.L. 2005,  
22 and as last amended by Section 10, Chapter 413,  
23 O.S.L. 2010 and 2-11-413, as renumbered by Section  
24 14, Chapter 230, O.S.L. 2005, and as last amended by  
Section 4, Chapter 146, O.S.L. 2007 (27A O.S. Supp.  
2010, Section 2-11-401.1, 2-11-401.2, 2-11-401.3, 2-  
11-401.4, 2-11-401.5, 2-11-401.6 and 2-11-401.7),  
which relate to the Oklahoma Waste Tire Recycling  
Act; changing the name of the act; changing the word  
waste to the word used throughout the act; changing  
the name of a waste tire facility to a used tire  
recycling facility throughout the act; modifying  
definitions; adding definition; changing the amount  
of certain used tire recycling fees; deleting certain  
used tire recycling fees; updating statutory  
references; modifying allocation of the monies in the  
Used Tire Recycling Indemnity Fund; providing for  
allocation of certain percentage to the Department of  
Environmental Quality Revolving Fund; specifying use

1 of the monies; providing for allocation of the  
2 balance; deleting certain sworn affidavit  
3 requirements; requiring documentation of remittance  
4 of certain fees; modifying tire dump or landfill  
5 collection percentage requirements; authorizing the  
6 Department to determine the collection percentages;  
7 modifying basis for allocation of remaining monies in  
8 the Fund; directing the Department to promulgate  
9 certain rules by a certain date; authorizing the  
10 Department to solicit bids for remediation of tire  
11 dumps under certain conditions; modifying deposit  
12 requirements; amending 27A O.S. 2001, Section 2-2-  
13 201, as amended by Section 1, Chapter 301, O.S.L.  
14 2010 (27A O.S. Supp. 2010, Section 2-2-201), which  
15 relates to advisory councils; amending 27A O.S. 2001,  
16 Section 2-10-802, as last amended by Section 2,  
17 Chapter 301, O.S.L. 2010 (27A O.S. Supp. 2010,  
18 Section 2-10-802), which relates to solid waste  
19 scales, fees and expenditures; changing the word  
20 waste to the word used; providing an effective date;  
21 and declaring an emergency.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-11-401,  
is amended to read as follows:

Section 2-11-401. This part shall be known and may be cited as  
the "Oklahoma ~~Waste~~ Used Tire Recycling Act".

SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-11-402,  
as last amended by Section 1, Chapter 230, O.S.L. 2005, and as  
renumbered by Section 8, Chapter 230, O.S.L. 2005 (27A O.S. Supp.  
2010, Section 2-11-401.1), is amended to read as follows:

Section 2-11-401.1 As used in the Oklahoma ~~Waste~~ Used Tire  
Recycling Act:

- 1           1. "Automotive dismantler and parts recycler" means the same as  
2 defined in Section 591.2 of Title 47 of the Oklahoma Statutes;
- 3           2. "Commission" means the Oklahoma Tax Commission;
- 4           3. "Crumb rubber" means fine particles of vulcanized rubber  
5 resulting from mechanical or cryogenic size reduction of ~~waste~~ waste used  
6 tires;
- 7           4. "Department" means the Department of Environmental Quality;
- 8           5. "Erosion control project" means a project involving the  
9 utilization of ~~waste~~ waste used tires for erosion control, bank  
10 stabilization or other conservation project;
- 11          6. "Fund" means the ~~Waste~~ Used Tire Recycling Indemnity Fund;
- 12          7. "Motorcycle" means a motor vehicle of a type defined in  
13 Section 1-135 of Title 47 of the Oklahoma Statutes;
- 14          8. "Motor-driven cycle" means a motor vehicle of a type defined  
15 in Section 1-136 of Title 47 of the Oklahoma Statutes;
- 16          9. "Motorized bicycle" means a motor vehicle of a type defined  
17 in Section 1-136.1 of Title 47 of the Oklahoma Statutes;
- 18          10. "Motor vehicle" means the same as defined in Section 1-134  
19 of Title 47 of the Oklahoma Statutes;
- 20          11. "Priority cleanup list" means a list, created and  
21 maintained by the Department, of:
- 22            a. unpermitted ~~waste~~ dumps which did not exist when the  
23               owner took possession of the property where the tires  
24

1 are located, and were created without the consent of  
2 or benefit to the owner of the property, and

3 b. such other tire dumps designated by the Department  
4 pursuant to Section 2-11-401.6 of this title;

5 12. "Tire" means any solid or air-filled covering for motor  
6 vehicle wheels;

7 13. "Tire dealer" means any person engaged in the business of  
8 selling new and used tires to final consumers, not for resale;

9 14. "Tire-derived fuel facility" or "TDF facility" means a  
10 facility that uses processed tires or whole ~~waste~~ used tires for  
11 energy or fuel recovery;

12 15. "~~Waste~~ Used tire recycling facility" means any place which  
13 is permitted as a solid waste disposal site, in accordance with the  
14 Oklahoma Solid Waste Management Act, at which ~~waste~~ used tires are  
15 processed; ~~and~~

16 16. "~~Waste~~ Used tire processing" means altering the form of  
17 whole ~~waste~~ used tires by shredding, chipping, or other method  
18 approved by the Department, except baling; and

19 17. "Used tire" means an unprocessed whole tire or tire part  
20 that can no longer be used for its original intended purpose but can  
21 be beneficially reused as approved by the Department. Any used tire  
22 collected in accordance with the requirements of the Oklahoma Used  
23 Tire Recycling Act is not considered to be discarded. A tire that  
24

1 can be used, reused or legally modified to be reused for its  
2 original intended purpose shall not be a used tire.

3 SECTION 3. AMENDATORY 27A O.S. 2001, Section 2-11-403,  
4 as renumbered by Section 9, Chapter 230, O.S.L. 2005, and as last  
5 amended by Section 1, Chapter 194, O.S.L. 2010 (27A O.S. Supp. 2010,  
6 Section 2-11-401.2), is amended to read as follows:

7 Section 2-11-401.2 A. 1. Except as otherwise provided by this  
8 section, the following assessments shall be made for tires for use  
9 on motor vehicles:

10 a. at the time any tire:

11 (1) with a rim diameter of ~~seventeen and one-half (17~~  
12 ~~1/2) inches rim diameter or less~~ than or equal to  
13 nineteen and one-half (19 1/2) inches is sold by  
14 a tire dealer, there shall be assessed a ~~waste~~  
15 used tire recycling fee of ~~One Dollar (\$1.00)~~ Two  
16 Dollars and fifty cents (\$2.50) per tire,

17 (2) ~~with a rim diameter greater than seventeen and~~  
18 ~~one-half (17 1/2) inches but less than or equal~~  
19 ~~to nineteen and one-half (19 1/2) inches is sold~~  
20 ~~by a tire dealer, there shall be assessed a waste~~  
21 ~~tire recycling fee of Two Dollars and fifty cents~~  
22 ~~(\$2.50) per tire,~~

23 ~~(3)~~ with a rim diameter greater than nineteen and  
24 one-half (19 1/2) inches is sold by a tire

1 dealer, there shall be assessed a ~~waste~~ used tire  
2 recycling fee of Three Dollars and fifty cents  
3 (\$3.50) per tire, and

4 ~~(4)~~ (3) is sold by a tire dealer for use on a motorcycle,  
5 motor-driven cycle or motorized bicycle, there  
6 shall be assessed a ~~waste~~ used tire recycling fee  
7 of One Dollar (\$1.00) per tire,

8 b. at any time a motor vehicle with a tire rim diameter  
9 of ~~seventeen and one-half (17 1/2) inches or less than~~  
10 or equal to nineteen and one-half (19 1/2) inches is  
11 first registered in this state, there shall be  
12 assessed a ~~waste~~ used tire recycling fee of ~~One Dollar~~  
13 ~~(\$1.00)~~ Two Dollars and fifty cents (\$2.50) per tire,

14 ~~e.~~ ~~at any time a motor vehicle with a tire rim diameter~~  
15 ~~of greater than seventeen and one-half (17 1/2) inches~~  
16 ~~but less than or equal to nineteen and one-half (19~~  
17 ~~1/2) inches is first registered in this state, there~~  
18 ~~shall be assessed a waste tire recycling fee of Two~~  
19 ~~Dollars and fifty cents (\$2.50) per tire, except as~~  
20 otherwise provided by subparagraph ~~e~~ d of this  
21 paragraph,

22 ~~d.~~ c. at any time a motor vehicle with a tire rim diameter  
23 of greater than nineteen and one-half (19 1/2) inches  
24 is first registered in this state, there shall be

1            assessed a ~~waste~~ used tire recycling fee of Three  
2            Dollars and fifty cents (\$3.50) per tire, except as  
3            otherwise provided by subparagraph ~~e~~ d of this  
4            paragraph, and

5            ~~e~~ d.    at any time a motorcycle, motor-driven cycle or  
6            motorized bicycle is first registered in this state,  
7            there shall be assessed a ~~waste~~ used tire recycling  
8            fee of One Dollar (\$1.00) per tire.

9            2.    Motor vehicles registered pursuant to Section 1120 of Title  
10          47 of the Oklahoma Statutes shall be exempt from the provisions of  
11          this subsection.

12          3.    No fee shall be assessed by a tire dealer for used tires or  
13          retreaded tires for which the tire dealer can document that the  
14          recycling fee has been previously paid.

15          4.    All-terrain vehicles and off-road motorcycles registered  
16          pursuant to the provisions of Section 1132 of Title 47 of the  
17          Oklahoma Statutes shall be exempt from the provisions of this  
18          section.

19          B.    1.    Except as otherwise provided by this section, beginning  
20          July 1, 2010, tires used on implements of husbandry and agricultural  
21          equipment that are not more than fourteen (14) inches wide and  
22          forty-four (44) inches in diameter shall be assessed a ~~waste~~ used  
23          tire recycling fee of five cents (\$0.05) per pound of the weight of  
24          the tire, with a minimum fee of Two Dollars and fifty cents (\$2.50)

1 per tire. Beginning July 1, 2013, tires used on implements of  
2 husbandry and agricultural equipment that are any size shall be  
3 assessed a ~~waste~~ used tire recycling fee of five cents (\$0.05) per  
4 pound of the weight of the tire, with a minimum fee of Two Dollars  
5 and fifty cents (\$2.50) per tire.

6 2. The Department shall maintain a list of agricultural tire  
7 weights for tires subject to the assessment and make that list  
8 available to tire dealers upon request.

9 3. No fee shall be assessed by a tire dealer if the customer  
10 retains the used agricultural tire for use on a farm or ranch.

11 4. A tire dealer may pay the assessed fee for any ~~waste~~ used  
12 agricultural tire in current inventory and include that tire in the  
13 ~~waste~~ used tire recycling program.

14 C. 1. The tire dealer and motor license agent shall remit such  
15 fee to the Oklahoma Tax Commission in the same manner as provided by  
16 Section 1365 of Title 68 of the Oklahoma Statutes.

17 2. Except as otherwise provided by this section, the tire  
18 dealer shall remit to the Tax Commission ninety-seven and three-  
19 quarters percent (97.75%) of the fee due pursuant to this section at  
20 the time of filing any report as required by the Tax Commission.

21 3. Motor license agents shall remit all but One Dollar (\$1.00)  
22 of the fee assessed on each vehicle registered.

23 4. Failure to remit the fee at the time of filing the returns  
24 shall cause the fee to become delinquent. If the fee becomes



1 delinquent the tire dealer or motor license agent forfeits any claim  
2 to the discount authorized by this section and shall remit to the  
3 Tax Commission one hundred percent (100%) of the amount of the fee  
4 due plus any penalty due.

5 D. If the fee imposed or levied by subsection A of this  
6 section, or any part of such amount, is not paid before the fee  
7 becomes delinquent, there shall be collected on the total delinquent  
8 fee interest at the rate of one and one-quarter percent (1 1/4%) per  
9 month from the date of the delinquency until paid.

10 E. If any fee due under subsection A of this section, or any  
11 part thereof, is not paid within fifteen (15) days after the fee  
12 becomes delinquent, a penalty of ten percent (10%) on the total  
13 amount of fee due and delinquent shall be added and paid.

14 F. All penalties or interest imposed by this section shall be  
15 recoverable by the Tax Commission as a part of the fee imposed and  
16 all penalties and interest shall be apportioned the same as the fee  
17 on which the penalties or interest are collected.

18 SECTION 4. AMENDATORY 27A O.S. 2001, Section 2-11-404,  
19 as renumbered by Section 10, Chapter 230, O.S.L. 2005 (27A O.S.  
20 Supp. 2010, Section 2-11-401.3), is amended to read as follows:

21 Section 2-11-401.3 A. There is hereby created within the  
22 Oklahoma Tax Commission the "~~Waste~~ Used Tire Recycling Indemnity  
23 Fund". The Indemnity Fund shall be administered by the Oklahoma Tax  
24

1 Commission pursuant to the provisions of Section ~~195~~ 2-11-401.4 of  
2 this ~~act~~ title.

3 B. The Indemnity Fund shall consist of:

4 1. All monies received by the Commission as proceeds from the  
5 assessment imposed pursuant to Section ~~193~~ 2-11-401.2 of this ~~act~~  
6 title;

7 2. Interest attributable to investment of money in the  
8 Indemnity Fund; and

9 3. Money received by the Commission in the form of gifts,  
10 grants, reimbursements, or from any other source intended to be used  
11 for the purposes specified by or collected pursuant to the  
12 provisions of the Oklahoma ~~Waste~~ Used Tire Recycling Act.

13 SECTION 5. AMENDATORY 27A O.S. 2001, Section 2-11-405,  
14 as renumbered by Section 11, Chapter 230, O.S.L. 2005, and as last  
15 amended by Section 2, Chapter 194, O.S.L. 2010 (27A O.S. Supp. 2010,  
16 Section 2-11-401.4), is amended to read as follows:

17 Section 2-11-401.4 A. Compensation to ~~waste~~ used tire  
18 facilities and tire-derived fuel or TDF facilities pursuant to this  
19 section shall be limited to facilities located in Oklahoma.  
20 Compensation for ~~waste~~ used tire activities pursuant to this section  
21 shall be limited to ~~waste~~ used tires from Oklahoma. A ~~waste~~ used  
22 tire recycling facility or tire-derived fuel or TDF facility may  
23 transport and deliver ~~waste~~ used tires collected from Oklahoma to an  
24 out-of-state ~~waste~~ used tire recycling facility or TDF facility but

1 shall not be eligible for compensation from the ~~Waste~~ Used Tire  
2 Recycling Indemnity Fund for those ~~waste~~ used tires. To be  
3 eligible, applicants for compensation shall be in compliance with  
4 the Oklahoma ~~Waste~~ Used Tire Recycling Act.

5 B. The monies accruing annually to the ~~Waste~~ Used Tire  
6 Recycling Indemnity Fund shall be allocated first to the ~~following~~  
7 Department of Environmental Quality Revolving Fund, to be used for  
8 implementing applicable requirements related to the control of  
9 mobile and area sources of air emissions, for monitoring and  
10 modeling the impacts on Oklahoma of air pollution from other states,  
11 and for implementing and enforcing other applicable air pollution  
12 control requirements. The amount of money allocated for this  
13 purpose shall be twenty-eight percent (28%) of the funds produced by  
14 the two-dollar-and-fifty-cent per tire fee assessed pursuant to  
15 division (1) of subparagraph a of paragraph 1 of subsection A of  
16 Section 2-11-401.2 of this title and subparagraph b of paragraph 1  
17 of subsection A of Section 2-11-401.2 of this title. After this  
18 allocation is deducted, the balance of the monies shall be allocated  
19 as follows:

20 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax  
21 Commission and five and three-fourths percent (5.75%) to the  
22 Department of Environmental Quality for the purpose of administering  
23 the requirements of the Oklahoma ~~Waste~~ Used Tire Recycling Act;  
24

1           2. An amount not to exceed Fifty Thousand Dollars (\$50,000.00)  
2 per audit to the State Auditor and Inspector for the purpose of  
3 conducting audits of the Oklahoma ~~Waste~~ Waste Used Tire Recycling Program  
4 pursuant to Section 2-11-401.6 of this title; and

5           3. Up to ten percent (10%) for capital investment reimbursement  
6 to ~~waste~~ waste used tire facilities and TDF facilities for the purchase of  
7 equipment necessary to utilize ~~waste~~ waste used tires. Only equipment  
8 purchased on or after January 1, 1995, shall be eligible. The  
9 facilities are eligible for compensation at a rate of Twenty Dollars  
10 (\$20.00) per ton of ~~waste~~ waste used tires used. Total reimbursement  
11 shall not exceed one hundred percent (100%) of the capital  
12 investment in eligible equipment. The facilities may apply for  
13 compensation monthly to the Department of Environmental Quality, and  
14 shall supply any information required by the Department.

15           C. After the allocations under subsection B of this section are  
16 made, the balance of monies in the Fund shall be available for  
17 compensation pursuant to the provisions of the Oklahoma ~~Waste~~ Waste Used  
18 Tire Recycling Act as follows:

19           1. Compensation to ~~waste~~ waste used tire facilities for ~~waste~~ waste used  
20 tire processing, at the rate of Fifty-four Dollars (\$54.00) per ton  
21 of processed tire material. For compensation the following  
22 conditions shall apply:

- 23           a. facilities that process ~~waste~~ waste used tires by altering  
24           the form of the ~~waste~~ waste used tires but do not produce

1 crumb rubber shall not receive compensation until the  
2 facility documents the sale and movement of the  
3 processed used tire material off-site to a third  
4 party,

5 b. facilities shall report and certify used tire  
6 processing activity in terms of weight. The facility  
7 shall by sworn affidavit provide to the Department  
8 sufficient information to verify that the facility has  
9 processed used tires and sold processed used tires for  
10 actual recycling or reuse in accordance with the  
11 purposes of the Oklahoma ~~Waste~~ Used Tire Recycling  
12 Act, and

13 c. to be eligible for compensation, a facility shall not  
14 have accumulated more processed material than the  
15 amount for which the facility has provided financial  
16 assurance under its solid waste permit or the amount  
17 accumulated from three (3) years of operation,  
18 whichever is less;

19 2. a. Compensation to ~~waste~~ used tire recycling facilities  
20 or TDF facilities at the rate of Fifty-three Dollars  
21 (\$53.00) per ton of whole ~~waste~~ used tires for the  
22 collection and transportation of ~~waste~~ used tires from  
23 Oklahoma tire dealers, automotive dismantlers and  
24 parts recyclers, solid waste landfill sites, and dumps

1 certified by the Department priority cleanup list, and  
2 delivering the tires to a ~~waste~~ waste used tire recycling  
3 facility or TDF facility. The collection and  
4 transportation of ~~waste~~ waste used tires shall be provided  
5 by the ~~waste~~ waste used tire recycling facility or TDF  
6 facility at no additional cost to the tire dealer or  
7 automotive dismantler and parts recycler or to the  
8 Fund. The ~~waste~~ waste used tire recycling facility or TDF  
9 facility shall collect from any location at which  
10 there are at least three hundred ~~waste~~ waste used tires.

11 b. Compensation under this paragraph shall not be payable  
12 until the ~~waste~~ waste used tires have been actually  
13 processed according to the solid waste permit for the  
14 facility or actually used for energy or fuel recovery.  
15 A TDF facility that collects and transports whole  
16 ~~waste~~ waste used tires shall be eligible for compensation  
17 under this paragraph only for those whole ~~waste~~ waste used  
18 tires consumed by that facility.

19 c. No tire dealer shall charge any customer any  
20 additional fee for the management, recycling, or  
21 disposal of any ~~waste~~ waste used tire upon which the ~~waste~~  
22 waste used tire recycling fee has been remitted to the Tax  
23 Commission. For customers who choose not to leave a  
24 ~~waste~~ waste used tire upon which the ~~waste~~ waste used tire

1 recycling fee has been remitted to the Tax Commission,  
2 the tire dealer shall issue a receipt which entitles  
3 the customer to deliver the ~~waste~~ used tire to the  
4 dealer at a later date.

5 d. To be eligible for compensation pursuant to this  
6 paragraph, the ~~waste~~ used tire recycling facility or  
7 TDF facility shall:

8 (1) demonstrate to the satisfaction of the Department  
9 that the facility is regularly engaged in the  
10 collection, transportation and delivery of ~~waste~~  
11 used tires to a ~~waste~~ used tire recycling  
12 facility or to a TDF facility, on a statewide  
13 basis, and from each county of the state,

14 (2) provide documentation to the Department, signed  
15 by a dealer at the time of collection, which  
16 certifies ~~by sworn affidavit the total amount of~~  
17 ~~waste tire recycling fees, itemized by month,~~  
18 ~~remitted by the dealer since the date the waste~~  
19 ~~tires of the dealer were last collected~~  
20 remittance of appropriate fees to the Oklahoma  
21 Tax Commission as a participating tire dealer  
22 pursuant to the provisions of the Oklahoma Used  
23 Tire Recycling Act, and

1 (3) annually demonstrate that at least ~~two~~ three to  
2 six percent ~~(2%)~~ (3-6%) of the tires were  
3 collected from tire dumps or landfills on the  
4 Department priority cleanup list or community-  
5 wide cleanup events approved by the Department.  
6 The Department is authorized to determine  
7 periodically the applicable percentage within the  
8 specified range set forth in this division based  
9 on the number of tires remaining in illegal dumps  
10 and available funding.

11 e. In lieu of proof of remitted tire recycling fees, the  
12 ~~waste used~~ tire recycling facility or TDF facility  
13 shall accept proof of purchase of a salvage vehicle  
14 registered in Oklahoma by an automotive dismantler and  
15 parts recycler, licensed pursuant to the Automotive  
16 Dismantlers and Parts Recycler Act, for the collection  
17 and transportation of up to five ~~waste used~~ tires per  
18 salvage vehicle purchased on or after January 1, 1996.

19 f. Beginning July 1, 2010, a ~~waste used~~ tire recycling  
20 facility or TDF facility shall be required to collect  
21 and transport tires used on implements of husbandry  
22 and agricultural equipment that are not more than  
23 fourteen (14) inches wide and forty-four (44) inches  
24 in diameter. Beginning July 1, 2013, a ~~waste used~~



1 tire recycling facility or TDF facility shall be  
2 required to collect and transport tires used on  
3 implements of husbandry and agricultural equipment  
4 that are any size;

5 3. a. Compensation to a person, corporation or other legal  
6 entity who has obtained a permit or other  
7 authorization from the United States Army Corps of  
8 Engineers or a local Conservation District to provide  
9 services for erosion control projects. Compensation  
10 shall be at the rate of Two Dollars and eighty cents  
11 (\$2.80) per tire for ~~waste~~ used tires having a tire  
12 rim diameter of greater than seventeen and one-half  
13 (17 1/2) inches, and eighty cents (\$0.80) per tire for  
14 tires having a rim diameter less than or equal to  
15 seventeen and one-half (17 1/2) inches.

16 b. Reimbursement under this paragraph shall be subject to  
17 the following:

18 (1) the applicant for reimbursement collects or  
19 provides for the collection and utilization of  
20 ~~waste~~ used tires in an erosion control project in  
21 Oklahoma in accordance with a written plan  
22 approved by the United States Army Corps of  
23 Engineers or by a local Conservation District,  
24

- 1 (2) the used tires are collected and transported to  
2 the site of the erosion control project,
- 3 (3) the site landowner agrees to plant trees or other  
4 suitable vegetation in accordance with a planting  
5 plan developed in conjunction with the Division  
6 of Forestry of the Oklahoma Department of  
7 Agriculture, Food, and Forestry,
- 8 (4) the applicant reports and certifies the number of  
9 used tires utilized. The applicant shall by  
10 sworn affidavit provide to the Department  
11 sufficient information to verify that the  
12 applicant has utilized the tires in accordance  
13 with the purposes of the Oklahoma ~~Waste~~ Used Tire  
14 Recycling Act,
- 15 (5) the applicant annually demonstrates that at least  
16 ~~two~~ three to six percent ~~(2%)~~ (3-6%) of the tires  
17 utilized by the applicant for which compensation  
18 is requested were collected from tire dumps or  
19 landfills on the Department priority cleanup list  
20 or community-wide cleanup events approved by the  
21 Department. The Department is authorized to  
22 determine periodically the applicable percentage  
23 within the specified range as set forth in this  
24

1 division based on the number of tires remaining  
2 in illegal dumps and available funding,

3 (6) the applicant demonstrates to the satisfaction of  
4 the Department that the applicant is regularly  
5 engaged in the collection, transportation and  
6 delivery to erosion control projects of ~~waste~~  
7 used tires, on a statewide basis, and from each  
8 county of the state, at no additional cost to the  
9 tire dealer or automotive dismantler and parts  
10 recycler or to the Fund, and

11 (7) the applicant provides documentation to the  
12 Department, signed by a dealer at the time of  
13 collection, which certifies ~~by sworn affidavit~~  
14 ~~the total amount of waste tire recycling fees,~~  
15 ~~itemized by month, remitted by the dealer since~~  
16 ~~the date the waste tires of the dealer were last~~  
17 ~~collected~~ remittance of appropriate fees to the  
18 Oklahoma Tax Commission as a participating tire  
19 dealer pursuant to the provisions of the Oklahoma  
20 Used Tire Recycling Act.

21 c. In lieu of proof of remitted tire recycling fees, the  
22 applicant shall accept proof of purchase of a salvage  
23 vehicle registered in Oklahoma by an automotive  
24 dismantler and parts recycler, licensed pursuant to

1 the Automotive Dismantlers and Parts Recycler Act, for  
2 the collection and transportation of up to five ~~waste~~  
3 used tires per salvage vehicle purchased on or after  
4 January 1, 1996.

5 d. Compensation pursuant to this paragraph shall be  
6 payable only for the tires collected and utilized in  
7 accordance with the purposes of the Oklahoma ~~Waste~~  
8 Used Tire Recycling Act and as authorized by the  
9 Department. During the course of the erosion control  
10 project, the Department may determine the amount of  
11 and authorize partial compensation, as tires are  
12 utilized in accordance with the written plan.

13 e. Any entity deemed eligible for reimbursement under the  
14 provisions of this paragraph shall be liable for the  
15 erosion control project for a period of five (5)  
16 years. During the five-year period, if additional  
17 cleanup or remediation of an erosion control project  
18 is required due to failure or negligence on the part  
19 of the original contractor, the original contractor  
20 shall be responsible for cleanup costs and shall not  
21 be eligible for any additional compensation from the  
22 Fund for costs related to that erosion control  
23 project;

- 1           4.   a.    Compensation to a unit of local or county government  
2                    that submits to the Department for approval a plan for  
3                    the use of baled ~~waste~~ used tires in an engineering  
4                    project. Compensation shall be at the rate of fifty  
5                    cents (\$0.50) per tire.
- 6            b.    The plan shall be approved by the Department before  
7                    construction of the project begins.
- 8            c.    Any unit of local or county government baling ~~waste~~  
9                    used tires shall not accumulate more than fifty ~~waste~~  
10                   used tire bales prior to beginning construction of an  
11                    approved project.
- 12           d.    ~~Waste~~ Used tires baled pursuant to this paragraph  
13                    cannot be obtained from tire manufacturers, retailers,  
14                    wholesalers, retreaders, or automotive dismantlers and  
15                    parts recyclers.
- 16           e.    Any unit of local or county government authorized to  
17                    receive reimbursement for the use of baled ~~waste~~ used  
18                    tires in an engineering project shall report and  
19                    certify whole ~~waste~~ used tires by number. The  
20                    governmental unit shall by sworn affidavit provide  
21                    sufficient information to the Department to verify  
22                    that the unit has utilized the tires in accordance  
23                    with the purposes of the Oklahoma ~~Waste~~ Used Tire  
24                    Recycling Act; and

1           5. If the Fund contains insufficient funds in any month to  
2 satisfy the eligible reimbursements under this subsection, the  
3 Department shall determine the apportionment of payments to be made  
4 among the qualified applicants under this subsection according to  
5 the percentage of ~~waste~~ used tires processed, collected and  
6 transported, or utilized.

7           D. 1. After the allocations under subsections B and C of this  
8 section are made, any remaining monies in the Fund shall be  
9 available for TDF facilities and ~~waste~~ used tire recycling  
10 facilities that produce crumb rubber for compensation at the rate of  
11 Twenty-nine Dollars (\$29.00) per ton of processed or ~~whole-waste~~  
12 used tires ~~used~~ utilized for energy or fuel recovery or the  
13 production of crumb rubber.

14           2. The production of crumb rubber shall be considered a  
15 compensable event separate from and in addition to any compensation  
16 for ~~waste~~ used tire processing under subsection C of this section.

17           3. TDF facilities and ~~waste~~ used tire recycling facilities  
18 authorized to receive reimbursement under this subsection shall  
19 report and certify tire material used by weight.

20           4. The facilities shall by sworn affidavit provide to the  
21 Department sufficient information to verify that the facility has  
22 used the tires in accordance with the purposes of the Oklahoma ~~Waste~~  
23 Used Tire Recycling Act.

24

1           5. If the Fund contains insufficient funds in any month to  
2 satisfy the eligible reimbursements under this subsection, the  
3 Department shall determine the apportionment of payments to be made  
4 among the qualified applicants according to the percentage of ~~waste~~  
5 used tires used intended for energy or fuel recovery or the  
6 production of crumb rubber.

7           E. After the allocations under subsections B, C and D of this  
8 section are made, any remaining monies in the Fund shall be  
9 disbursed as additional compensation to ~~waste used tire recycling~~  
10 facilities or TDF facilities for the ~~collection and transportation~~  
11 ~~of waste tires from Oklahoma tire dealers, automotive dismantlers~~  
12 ~~and parts recyclers, solid waste landfill sites, and remediation of~~  
13 dumps certified by the Department ~~priority cleanup list,~~ and  
14 delivering the tires to a ~~waste used tire recycling~~ facility or a  
15 TDF facility. The Department shall determine ~~the apportionment of~~  
16 ~~payments to be~~ additional compensation made to qualified applicants  
17 under this subsection ~~among the qualified applicants according to~~  
18 ~~the percentage of waste tires collected and transported based on~~  
19 cleanup feasibility of the dump. By July 1, 2012, the Board shall  
20 promulgate rules establishing unit costs for compensation based on  
21 the remediation feasibility of the tire dumps. The Department may  
22 solicit bids for the remediation of tire dumps if no used tire  
23 recycling facilities or TDF facilities agree to remediate a priority  
24 tire dump authorized by the Department or if the Department

1 determines the qualified applicant has not remediated the tires in  
2 the tire dump to meet reference conditions of comparable property in  
3 the immediate area.

4 F. ~~Waste~~ Used tire recycling facilities, TDF facilities, or  
5 persons, corporations or other legal entities authorized by the  
6 provisions of the Oklahoma ~~Waste~~ Used Tire Recycling Act to receive  
7 reimbursement shall demonstrate that the facilities or legal  
8 entities have successfully complied with the requirements of the  
9 Oklahoma ~~Waste~~ Used Tire Recycling Act through the filing of  
10 appropriate applications, reports, and other documentation that may  
11 be required by the Tax Commission and the Department.

12 SECTION 6. AMENDATORY 27A O.S. 2001, Section 2-11-405.1,  
13 as renumbered by Section 12, Chapter 230, O.S.L. 2005 (27A O.S.  
14 Supp. 2010, Section 2-11-401.5), is amended to read as follows:

15 Section 2-11-401.5 To the extent that monies accruing to the  
16 ~~Waste~~ Used Tire Recycling Indemnity Fund exceed the monies needed  
17 for the purposes previously specified in the Oklahoma ~~Waste~~ Used  
18 Tire Recycling Act, the Department of Environmental Quality may be  
19 reimbursed from the remaining funds for necessary costs associated  
20 with remediation of sites at which ~~waste~~ used tires or other wastes  
21 incidental to the ~~waste~~ used tires present a threat to human health  
22 or the environment. Upon its receipt of documentation from the  
23 Department showing expenditures relating to the remediation of such

24



1 sites, the Tax Commission shall reimburse the Department for its  
2 documented expenditures.

3 SECTION 7. AMENDATORY 27A O.S. 2001, Section 2-11-409,  
4 as renumbered by Section 13, Chapter 230, O.S.L. 2005, and as last  
5 amended by Section 10, Chapter 413, O.S.L. 2010 (27A O.S. Supp.  
6 2010, Section 2-11-401.6), is amended to read as follows:

7 Section 2-11-401.6 A. 1. The Oklahoma Tax Commission shall  
8 promulgate rules to carry out the provisions of the Oklahoma ~~Waste~~  
9 Used Tire Recycling Act which pertain to the remittance of fees and  
10 to the payment of monies accruing to the ~~Waste~~ Used Tire Recycling  
11 Indemnity Fund.

12 2. Upon receipt of any referral from the Department of  
13 Environmental Quality, as set out in paragraph 7 of subsection B of  
14 this section, it shall be the duty of the Tax Commission to promptly  
15 undertake proceedings in accordance with the recommendations of the  
16 Department. The Tax Commission shall timely report the results of  
17 the proceedings to the Department.

18 3. On a monthly basis, the Tax Commission shall provide to the  
19 Department a report of the fees remitted by each tire dealer and  
20 motor license agent pursuant to Section 2-11-401.2 of this title.

21 B. 1. The Department of Environmental Quality shall prescribe  
22 forms, containing documentation as required by the Oklahoma ~~Waste~~  
23 Used Tire Recycling Act, to be used by a ~~waste~~ used tire recycling  
24

1 facility, TDF facility, or person, corporation or other legal entity  
2 authorized to receive reimbursement.

3 2. On at least a monthly basis, the Department shall evaluate  
4 and process applications and shall report to the Tax Commission  
5 compliance and allocation information necessary for the Tax  
6 Commission to issue payment of monies from the fund.

7 3. The Department shall make periodic inspections of applicants  
8 for compensation to ensure compliance with the provisions of Section  
9 2-11-401.4 of this title. The Department shall submit a summary of  
10 the results of those inspections in an annual report to the office  
11 of the State Auditor and Inspector.

12 4. The Environmental Quality Board shall promulgate rules for  
13 the permitting of ~~waste~~ waste used tire recycling facilities under the  
14 Oklahoma Solid Waste Management Act and for the certification of any  
15 entity to receive compensation under the provisions of the Oklahoma  
16 ~~Waste~~ Used Tire Recycling Act.

17 5. The Department shall file a report with the Legislature and  
18 the Governor detailing the administration of the Oklahoma ~~Waste~~ Used  
19 Tire Recycling Act and its effectiveness in bringing about the  
20 cleanup of existing ~~waste~~ waste used tire dumps and in preventing the  
21 development of new dumps. The first report shall be filed by no  
22 later than December 31, 1992. Subsequent reports shall be filed  
23 every three (3) years thereafter.

24

1           6. In developing the priority cleanup list, the Department  
2 shall prioritize those dumps where the landowner was a victim of  
3 illegal dumping. Any other tire dump may be placed on the priority  
4 cleanup list in cases where the administrative enforcement process  
5 has been exhausted, and in such case, the Department may provide for  
6 the cleanup of the dump pursuant to Section 2-11-401.7 of this  
7 title.

8           7. The Department shall make periodic inspections of tire  
9 dealers and motor license agents throughout this state to ensure  
10 compliance with the provisions of Section 2-11-401.2 of this title.  
11 Upon a finding of any failure to properly remit the appropriate fee  
12 to the Tax Commission, the Department shall give written notice to  
13 the alleged violator and may commence administrative enforcement  
14 proceedings or civil proceedings in conformance with the provisions  
15 of Sections 2-3-502 and 2-3-504 of this title. If the Department  
16 determines that the fee has not been paid and there is no reasonable  
17 cause for the nonpayment, the Department may assess a penalty of  
18 double the amount that should have been remitted, to be added to the  
19 delinquent fee. If the Department determines any tire dealer or  
20 motor license agent has demonstrated a flagrant or repeated  
21 disregard of the provisions of Section 2-11-401.2 of this title, it  
22 shall refer such determination to the Tax Commission.

23           C. 1. By August 1, 1994, and every even year thereafter, the  
24 State Auditor and Inspector shall perform or shall contract with an

1 auditor or auditing company to perform an independent audit, as  
2 defined in paragraph 4 of subsection B of Section 212 of Title 74 of  
3 the Oklahoma Statutes, of the books, records, files and other such  
4 documents of the Tax Commission and the Department pertaining to the  
5 administration of the Fund. The audit shall include, but shall not  
6 be limited to, a review of agency and claimant compliance with state  
7 statutes regarding the Fund, internal control procedures, adequacy  
8 of claim process expenditures from and debits of the Fund regarding  
9 reimbursements, administration, personnel, operating and other  
10 expenses charged by the Tax Commission and Department, and the  
11 duties performed in detail by agency personnel and Fund personnel  
12 for which payment is made from the Fund. In addition the audit  
13 shall include recommendations for improving claim processing,  
14 equipment needed for claim processing, internal control or structure  
15 for administering the Fund, and such other areas deemed necessary by  
16 the State Auditor and Inspector.

17 2. The cost of the audit shall be borne by the Fund, pursuant  
18 to the limits and provisions of Section 2-11-401.4 of this title.

19 3. Copies of the audit shall be submitted to the Governor, the  
20 Speaker of the House of Representatives, the President Pro Tempore  
21 of the Senate and the Chairs of the Appropriations Committee of both  
22 the Oklahoma House of Representatives and the Oklahoma State Senate.

23 SECTION 8. AMENDATORY 27A O.S. 2001, Section 2-11-413,  
24 as renumbered by Section 14, Chapter 230, O.S.L. 2005, and as last

1 amended by Section 4, Chapter 146, O.S.L. 2007 (27A O.S. Supp. 2010,  
2 Section 2-11-401.7), is amended to read as follows:

3 Section 2-11-401.7 A. Except as otherwise provided by this  
4 section, it shall be unlawful for any person to:

5 1. Own or operate a site used for the storage, collection or  
6 disposal of more than fifty ~~waste~~ used tires except at a site or  
7 facility permitted or approved by the Department of Environmental  
8 Quality to accept ~~waste~~ used tires. The provisions of this  
9 paragraph shall not apply to tire manufacturers, retailers,  
10 wholesalers and retreaders who store two thousand five hundred or  
11 fewer ~~waste~~ used tires at their place of business or designated off-  
12 premises storage site;

13 2. Dispose of ~~waste~~ used tires at any site or facility other  
14 than a site or facility for which a permit has been issued, or which  
15 has been otherwise authorized by the Department;

16 3. Knowingly transport or knowingly allow ~~waste~~ used tires  
17 under the control or in the possession of the person to be  
18 transported to an unpermitted or unapproved site or facility; or

19 4. Remove more than ten used tires from the possession of the  
20 dealer unless the dealer provides a manifest form, approved by the  
21 Department, which documents the removal and approved disposition or  
22 sale of the tires. Dealers, haulers, and ~~waste~~ used tire recycling  
23 facilities shall keep copies of manifests available for inspection  
24 for five (5) years.

1 B. The provisions of subsection A of this section shall not  
2 apply to the use of ~~waste~~ used tires for agricultural purposes as  
3 recognized by the Oklahoma Department of Agriculture, Food, and  
4 Forestry.

5 C. The provisions of paragraphs 2 and 3 of subsection A of this  
6 section shall not be construed to prevent an individual from  
7 disposing of ~~waste~~ used tires previously used by the individual as  
8 vehicle or equipment tires if the disposal is upon property owned by  
9 the individual and the disposal does not create a nuisance or pose a  
10 hazard to the public health or environment.

11 D. The provisions of paragraphs 2 and 3 of subsection A of this  
12 section shall not be construed to prevent a ~~waste~~ used tire  
13 recycling facility or tire-derived fuel or TDF facility from  
14 transporting and delivering ~~waste~~ used tires to an out-of-state  
15 ~~waste~~ used tire recycling facility or TDF facility.

16 E. 1. Except as otherwise ordered by the court, if the  
17 administrative enforcement process for a violation of an order  
18 issued by the Department for remediation, corrective action or  
19 cleanup of an illegal tire dump has been exhausted, the Department  
20 or a representative of the Department, upon notice to the landowner  
21 and an opportunity for the landowner to be heard on the issue, may  
22 enter the property to clean up the tire dump.

23

24

1           2. The Department may initiate a court action to recover the  
2 actual cost of cleanup, attorney fees, court costs, and all other  
3 monies expended in connection with the cleanup.

4           3. The Department shall deposit any excess funds recovered  
5 through such action into the ~~Waste~~ Used Tire Recycling Indemnity  
6 Fund.

7           SECTION 9.           AMENDATORY           27A O.S. 2001, Section 2-2-201, as  
8 amended by Section 1, Chapter 301, O.S.L. 2010 (27A O.S. Supp. 2010,  
9 Section 2-2-201), is amended to read as follows:

10           Section 2-2-201. A. There are hereby created:

- 11           1. The Water Quality Management Advisory Council;
- 12           2. The Hazardous Waste Management Advisory Council;
- 13           3. The Solid Waste Management Advisory Council;
- 14           4.. The Radiation Management Advisory Council; and
- 15           5. The Laboratory Services Advisory Council.

16           B. 1. Except as provided for in paragraph 2 of this  
17 subsection, each Council created pursuant to subsection A of this  
18 section shall consist of nine (9) members. Three members shall be  
19 appointed by the Governor, three members shall be appointed by the  
20 Speaker of the House of Representatives and three members shall be  
21 appointed by the President Pro Tempore of the Senate. Appointments  
22 shall be for three-year terms. Members of the Advisory Councils  
23 shall serve at the pleasure of and may be removed from office by the  
24 appointing authority. Members shall continue to serve until their

1 successors are appointed. Any vacancy shall be filled in the same  
2 manner as the original appointments. Five members shall constitute  
3 a quorum.

4 2. The Solid Waste Management Advisory Council shall consist of  
5 ten (10) members. Four members shall be appointed by the Governor,  
6 three members shall be appointed by the Speaker of the House of  
7 Representatives and three members shall be appointed by the  
8 President Pro Tempore of the Senate. Appointments shall be for  
9 three-year terms. Members of the Solid Waste Management Advisory  
10 Council shall serve at the pleasure of and may be removed from  
11 office by the appointing authority. Members shall continue to serve  
12 until their successors are appointed. Any vacancy shall be filled  
13 in the same manner as the original appointments. Six members shall  
14 constitute a quorum.

15 3. Each Council shall elect a chair and a vice-chair from among  
16 its members. Each Council shall meet as required for rule  
17 development, review and recommendation and for such other purposes  
18 specified by law. Special meetings may be called by the chair or by  
19 the concurrence of any three (3) members.

20 C. 1. All members of the Water Quality Management Advisory  
21 Council shall be knowledgeable of water quality and of the  
22 environment. The Council shall be composed as follows:

23 a. the Governor shall appoint three members as follows:

24 (1) one member representing the field of engineering,



1 (2) one member representing a statewide nonprofit  
2 environmental organization, and

3 (3) one member representing the general public,

4 b. the President Pro Tempore of the Senate shall appoint  
5 three members as follows:

6 (1) one member representing an industry located in  
7 this state,

8 (2) one member representing an oil field-related  
9 industry, and

10 (3) one member representing the field of geology, and

11 c. the Speaker of the House of Representatives shall  
12 appoint three members as follows:

13 (1) one member representing a political subdivision  
14 of the state who shall be a member of the local  
15 governmental body of a city or town,

16 (2) one member representing a rural water district  
17 organized pursuant to the laws of this state, and

18 (3) one member representing the field of agriculture.

19 2. The jurisdictional areas of the Water Quality Management  
20 Advisory Council shall include Article VI of this chapter, water  
21 quality and protection and related activities and such other areas  
22 as designated by the Board.

1 D. 1. All members of the Hazardous Waste Management Advisory  
2 Council shall be knowledgeable of hazardous waste and of the  
3 environment. The Council shall be composed as follows:

4 a. the Governor shall appoint three members as follows:

5 (1) one member representing an industry located in  
6 this state,

7 (2) one member representing a statewide nonprofit  
8 environmental organization, and

9 (3) one member representing a political subdivision  
10 of the state who shall be a member of the local  
11 governing body of a city or town,

12 b. the President Pro Tempore of the Senate shall appoint  
13 three members as follows:

14 (1) one member representing a political subdivision  
15 of the state who shall be a member of the local  
16 governmental body of a city or town,

17 (2) one member representing the general public, and

18 (3) one member representing industry generating  
19 hazardous waste, and

20 c. the Speaker of the House of Representatives shall  
21 appoint three members as follows:

22 (1) one member representing the field of engineering,

23 (2) one member representing the hazardous waste  
24 industry, and

1 (3) one member representing the field of geology.

2 2. The jurisdictional areas of the Hazardous Waste Management  
3 Advisory Council shall include Article VII of this chapter, the  
4 Oklahoma Hazardous Waste Reduction Program, and such other areas as  
5 designated by the Board.

6 E. 1. All members of the Solid Waste Management Advisory  
7 Council shall be knowledgeable of solid waste and of the  
8 environment. The Council shall be composed as follows:

9 a. the Governor shall appoint four members as follows:

10 (1) one member representing a statewide nonprofit  
11 environmental organization,

12 (2) one member shall be a county commissioner,

13 (3) one member representing the general public, and

14 (4) one member representing the solid waste  
15 incineration, waste-to-energy industry in this  
16 state,

17 b. the President Pro Tempore of the Senate shall appoint  
18 three members as follows:

19 (1) one member representing an industry located in  
20 this state generating solid waste,

21 (2) one member representing a political subdivision  
22 of this state who shall be a member of the local  
23 governmental body of a city or town, and

24 (3) one member representing the field of geology, and

1 c. the Speaker of the House of Representatives shall  
2 appoint three members as follows:

3 (1) one member representing the solid waste disposal  
4 industry in this state,

5 (2) one member representing the field of engineering,  
6 and

7 (3) one member representing the transportation  
8 industry.

9 2. The jurisdictional areas of the Solid Waste Management  
10 Advisory Council shall include Article X of this chapter, the  
11 Oklahoma ~~Waste~~ Used Tire Recycling Act and such other areas as  
12 designated by the Board.

13 F. 1. All members of the Radiation Management Advisory Council  
14 shall be knowledgeable of radiation hazards and radiation  
15 protection. The Council shall be composed as follows:

16 a. the Governor shall appoint three members as follows:

17 (1) one member representing an industry located in  
18 this state which uses sources of radiation in its  
19 manufacturing or processing business,

20 (2) one member representing a statewide nonprofit  
21 environmental organization, and

22 (3) one member representing the engineering  
23 profession who shall be a professional engineer  
24

1                   employed and experienced in matters of radiation  
2                   management and protection,

3           b.    the President Pro Tempore of the Senate shall appoint  
4           three members as follows:

5                   (1)   one member representing the faculty of an  
6                   institution of higher learning of university  
7                   status and shall be experienced in matters of  
8                   scientific knowledge and competent in matters of  
9                   radiation management and protection,

10                  (2)   one member representing the general public, and

11                  (3)   one member representing the field of industrial  
12                  radiography, and

13           c.    the Speaker of the House of Representatives shall  
14           appoint three members as follows:

15                  (1)   one member representing the transportation  
16                  industry,

17                  (2)   one member representing the petroleum industry  
18                  who is trained and experienced in radiation  
19                  management and protection, and

20                  (3)   one member representing a medical institution  
21                  within this state who shall be experienced in  
22                  matters of radiation management and protection.

1           2. The jurisdictional areas of the Radiation Management  
2 Advisory Council shall include Article IX of this chapter and such  
3 other areas as designated by the Board.

4           G. 1. All members of the Laboratory Services Advisory Council  
5 shall be knowledgeable of laboratory services and certification  
6 standards. The Council shall be composed as follows:

7           a. the Governor shall appoint three members as follows:

8                   (1) one member representing a private laboratory  
9                                 within the state certified by the Department,

10                   (2) one member representing the field of hydro-  
11                                 geology, and

12                   (3) one member representing permit holders required  
13                                 to routinely submit laboratory analyses results  
14                                 to the Department,

15           b. the President Pro Tempore of the Senate shall appoint  
16 three members as follows:

17                   (1) one member representing a private laboratory  
18                                 within the state certified by the Department,

19                   (2) one member representing a public laboratory  
20                                 within the state certified by the Department, and

21                   (3) one member representing the field of  
22                                 microbiology, and

23           c. the Speaker of the House of Representatives shall  
24 appoint three members as follows:

- 1 (1) one member representing a private laboratory
- 2 within the state certified by the Department,
- 3 (2) one member representing permit holders required
- 4 to routinely submit laboratory analyses results
- 5 to the Department, and
- 6 (3) one member representing the field of
- 7 environmental chemistry.

8 2. The jurisdictional areas of the Laboratory Services Advisory  
9 Council shall include Article IV of this chapter and such other  
10 areas designated by the Board.

11 H. 1. The Air Quality Council created pursuant to Section 6,  
12 Chapter 215, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-1807.1)  
13 shall remain in effect as the Air Quality Advisory Council and carry  
14 on the powers and duties assigned to it by law. Future appointments  
15 to the Council shall be made according to the provisions of this  
16 section.

17 2. The Council shall consist of nine (9) members who shall be  
18 residents of this state and appointed by the Governor with the  
19 advice and consent of the Senate.

20 3. Members of the Council shall have the qualifications as  
21 follows:

- 22 a. one member shall be selected from the engineering
- 23 profession, and, as such, shall be a professional
- 24 engineer and experienced in matters of air pollution

1 equipment and control, who shall not be an employee of  
2 any unit of government,

3 b. one member shall be selected from industry in general,  
4 and, as such, shall be employed as a manufacturing  
5 executive carrying on a manufacturing business within  
6 this state,

7 c. one member shall be selected from a faculty of an  
8 institution of higher learning of university status  
9 and shall be experienced in matters of scientific  
10 knowledge and competent in matters of air pollution  
11 control and evaluation,

12 d. one member shall be selected from the transportation  
13 industry,

14 e. one member shall be selected from the petroleum  
15 industry, and, as such, shall be employed by a  
16 petroleum company carrying on a petroleum refining  
17 business within the state, and, as such, shall be  
18 trained and experienced in matters of scientific  
19 knowledge of causes as well as effects of air  
20 pollution,

21 f. one member shall be selected from agriculture, and, as  
22 such, shall be engaged in or employed by a basic  
23 agricultural business or the processing of  
24 agricultural products,



- 1           g. one member shall be selected from the political  
2           subdivisions of the state, and, as such, shall be a  
3           member of the local government body of a city or town,  
4           h. one member, whose first term shall expire on June 15,  
5           1998, shall be selected from the general public, and  
6           i. one member, whose first term shall expire on June 15,  
7           1999, shall be selected from the electric utilities  
8           industry, and as such, shall be knowledgeable in  
9           matters of air pollution and control.

10           4. Each member shall be appointed to serve a term of office of  
11 seven (7) years.

12           The terms of all members shall be deemed to have expired on June  
13 15th of the year of expiration, and shall continue until successors  
14 have been duly appointed and qualified. If a vacancy occurs, the  
15 Governor shall appoint a person for the remaining portion of the  
16 unexpired term created by the vacancy. Five members of the Council  
17 shall constitute a quorum.

18           5. The Council shall hold at least two regular meetings each  
19 calendar year at a place and time to be fixed by the Council. The  
20 Council shall select one of its members to serve as chair and  
21 another of its members to serve as vice-chair at the first regular  
22 meeting in each calendar year to serve as the chair and vice-chair  
23 for the ensuing year. Special meetings may be called, and any  
24

1 meeting may be canceled, by the chair, or by three members of the  
2 Council by delivery of written notice to each member of the Council.

3 6. The jurisdictional areas of the Air Quality Council shall  
4 include Article V of this chapter and such other areas as designated  
5 by the Board.

6 I. In addition to other powers and duties assigned to each  
7 Council pursuant to this Code, each Council shall, within its  
8 jurisdictional area:

9 1. Have authority to recommend to the Board rules on behalf of  
10 the Department. The Department shall not have standing to recommend  
11 to the Board permanent rules or changes to such rules within the  
12 jurisdiction of a Council which have not previously been submitted  
13 to the appropriate Council for action;

14 2. Before recommending any permanent rules to the Board, give  
15 public notice, offer opportunity for public comment and conduct a  
16 public rulemaking hearing when required by the Administrative  
17 Procedures Act;

18 3. Have the authority to make written recommendations to the  
19 Board which have been concurred upon by at least a majority of the  
20 membership of the Council;

21 4. Have the authority to provide a public forum for the  
22 discussion of issues it considers relevant to its area of  
23 jurisdiction, and to:

24

1 a. pass nonbinding resolutions expressing the sense of  
2 the Council, and

3 b. make recommendations to the Board or Department  
4 concerning the need and the desirability of conducting  
5 meetings, workshops and seminars; and

6 5. Cooperate with each other Council, the public, the Board and  
7 the Executive Director in order to coordinate the rules within their  
8 respective jurisdictional areas and to achieve maximum efficiency  
9 and effectiveness in furthering the objectives of the Department.

10 J. The Councils shall not recommend rules for promulgation by  
11 the Environmental Quality Board unless all applicable requirements  
12 of the Administrative Procedures Act have been followed, including  
13 but not limited to notice, rule impact statement and rule-making  
14 hearings.

15 K. Members of the Councils shall serve without compensation but  
16 may be reimbursed expenses incurred in the performance of their  
17 duties, as provided in the State Travel Reimbursement Act. The  
18 Councils are authorized to utilize the conference rooms of the  
19 Department of Environmental Quality and obtain administrative  
20 assistance from the Department, as required.

21 SECTION 10. AMENDATORY 27A O.S. 2001, Section 2-10-802,  
22 as last amended by Section 2, Chapter 301, O.S.L. 2010 (27A O.S.  
23 Supp. 2010, Section 2-10-802), is amended to read as follows:  
24

1 Section 2-10-802. A. 1. Owners or operators of landfill  
2 disposal sites which are not generator-owned and -operated  
3 nonhazardous industrial waste monofills and owners or operators of  
4 commercial incinerators shall install scales. Such scales shall be  
5 installed on or within five (5) miles of the landfill disposal site  
6 or incinerator and shall be tested and certified as required by  
7 Section 14-35 of Title 2 of the Oklahoma Statutes relating to the  
8 authority of the State Board of Agriculture to test the standards of  
9 weights and measures within the state and to approve if found to be  
10 correct. For purposes of this section, any reference to  
11 "incinerator" or "incineration" shall encompass waste-to-energy  
12 facilities that produce recoverable energy by high-temperature  
13 combustion.

14 2. The owner or operator shall upon receipt weigh all waste  
15 received and record the weight in writing. If scales at a disposal  
16 site or incinerator are not operative, tonnage shall be estimated on  
17 a volume basis whereby the volume reported shall be no less than the  
18 volume capacity of the containers or, if none, of the vehicles  
19 delivering the waste, and one cubic yard of solid waste shall be  
20 calculated to weigh one-third (1/3) ton. The owner or operator  
21 shall place notice in the operating record of the disposal site or  
22 incinerator of the time and date at which the scales became  
23 inoperable, describe the steps taken to repair them, and note the  
24 date use was resumed. If daily use has not resumed within thirty

1 (30) days after the scales became inoperable, the owner or operator  
2 shall give written notice to the Department of Environmental  
3 Quality.

4 3. The owner or operator shall also maintain a written record  
5 of the weight or volume of any solid waste received which is  
6 productively reused or recovered in materially the same form as when  
7 received and sold in accordance with the permit for the landfill  
8 disposal site or incinerator.

9 4. The scale location restriction of this subsection shall not  
10 apply to federal or state military installations so long as:

11 a. the scales are located within the physical boundary of  
12 that installation, and

13 b. the disposal site or incinerator receives waste only  
14 from that military installation.

15 B. 1. Except as otherwise provided by this subsection:

16 a. owners and operators of landfill disposal sites or  
17 commercial incinerators which receive an average of  
18 less than one hundred (100) tons of solid waste per  
19 operating day shall assess a fee of One Dollar and  
20 fifty cents (\$1.50) per ton of solid waste received  
21 for disposal or incineration. A total of fifty cents  
22 (\$.50) per ton of such fee shall be retained by the  
23 owner or operator and used exclusively for capital  
24 improvement to their facilities and for the projects

1 required pursuant to the Oklahoma Solid Waste  
2 Management Act or the permit for the disposal site or  
3 incinerator for such period of time necessary to  
4 recoup a capital investment, plus the interest costs  
5 expended in purchasing the scales, of a total of Forty  
6 Thousand Dollars (\$40,000.00),

- 7 b. when the owner or operators have recouped a capital  
8 investment of the total specified in subparagraph a of  
9 this paragraph, the fee to be assessed shall be One  
10 Dollar and twenty-five cents (\$1.25) per ton of solid  
11 waste received for disposal or incineration. At such  
12 time, for a return with remittance filed on or before  
13 the due date, the owner or operator may deduct and  
14 retain ten percent (10%) of the fees collected, and  
15 c. records documenting the projects and use of the funds  
16 shall be included with each return.

- 17 2. a. Owners and operators of landfill disposal sites or  
18 commercial incinerators which receive an average of  
19 more than one hundred (100) tons of solid waste per  
20 operating day shall assess a fee of One Dollar and  
21 fifty cents (\$1.50) per ton of solid waste received  
22 for disposal or incineration, retaining twenty-five  
23 cents (\$0.25) per ton for a period of time necessary  
24 to recoup a capital investment, plus the interest

1 costs expended in purchasing the scales, of Forty  
2 Thousand Dollars (\$40,000.00). At the end of such  
3 period the fee shall revert to One Dollar and twenty-  
4 five cents (\$1.25) per ton. For a return with  
5 remittance filed on or before the due date, the owner  
6 or operator may deduct and retain ten percent (10%) of  
7 the fees collected.

8 b. Records documenting the capital investment and the use  
9 of the funds shall be included with each return.

10 3. a. Owners and operators of landfill disposal sites or  
11 commercial incinerators may be reimbursed for capital  
12 investment costs that have been or will be expended  
13 for the purchase and installation of a wheel wash  
14 system for use at the landfill disposal site or  
15 commercial incinerator facility. To be eligible to  
16 claim this reimbursement, the owner or operator must  
17 notify the Department no later than January 1, 2011,  
18 of the intent to claim the reimbursement, and the  
19 wheel wash system must be in place and operational no  
20 later than January 1, 2012. Reimbursement shall be  
21 paid only after the wheel wash system is installed and  
22 operational and each landfill disposal site or  
23 commercial incinerator shall be eligible for  
24 reimbursement for only one wheel wash system.

- 1           b.    The owner or operator shall provide records  
2                    documenting the capital investment costs of the wheel  
3                    wash system to the Department.
- 4           c.    At such time as the wheel wash system is in place and  
5                    operational and the capital investment costs have been  
6                    approved by the Department, the Department shall  
7                    reimburse the owner or operator the approved costs,  
8                    subject to the limitations in subparagraph d of this  
9                    paragraph.  The Department shall reimburse eligible  
10                   applicants in the order of approval until that  
11                   limitation has been reached.  If there are multiple  
12                   eligible applicants awaiting reimbursement, the  
13                   Department shall apportion the reimbursement amount  
14                   among the eligible applicants according to the capital  
15                   investment costs approved by the Department.
- 16           d.    If the total amount reimbursed to all eligible owners  
17                   and operators reaches Fifty Thousand Dollars  
18                   (\$50,000.00) within any state fiscal year, the  
19                   Department shall notify the owners and operators, and  
20                   thereafter the owners and operators shall not receive  
21                   any reimbursement until the next state fiscal year.
- 22           e.    The Environmental Quality Board is authorized to  
23                   promulgate rules as necessary to implement the  
24                   provisions of the Solid Waste Management Act,



1 including rules specifying minimum standards or other  
2 criteria for wheel wash systems necessary to qualify  
3 for the reimbursement.

4 4. The fee shall not be imposed on:

5 a. the solid waste received which is productively reused  
6 or recovered in materially the same form as when  
7 received in accordance with the permit for the  
8 landfill disposal site or incinerator. The owner or  
9 operator shall include records pertaining to this fee  
10 exemption in the quarterly return of fees to the  
11 Department,

12 b. generator-owned and -operated nonhazardous waste land  
13 disposal monofills and waste subject to a fee pursuant  
14 to Section 2-10-803 of this title. For emergencies  
15 and other special events, the Department and the owner  
16 or operator of a site subject to this section may  
17 enter into a formal agreement to waive the fee, and

18 c. ash produced as a result of the combustion in a  
19 commercial incinerator of waste on which the fee  
20 imposed by this section has been paid.

21 5. Large industrial waste generators who generate over ten  
22 thousand (10,000) tons of nonhazardous industrial solid waste in the  
23 state in a calendar year may annually apply to the Department for a  
24 certificate exempting the disposal or incineration of such generated

1 waste in excess of ten thousand (10,000) tons from the disposal and  
2 incineration fee authorized by this section. An applicant must have  
3 implemented a pollution prevention plan for such waste and filed it  
4 with the Department, provided operational documentation regarding  
5 such plan and paid the disposal and incineration fee on ten thousand  
6 (10,000) tons of the waste during the calendar year of application.  
7 The Department-issued exemption certificates shall be valid for the  
8 remainder of the calendar year of application, may contain  
9 conditions, and, upon presentation by authorized persons, shall be  
10 recognized by owners or operators of landfill disposal sites and  
11 incinerators subject to this section. If a generator operates a  
12 landfill or incinerator solely for waste from that generator, and if  
13 that generator chooses to seek the exemption authorized by this  
14 paragraph, the generator shall not be required to install scales or  
15 keep records relative to quantity of waste received for the landfill  
16 or incinerator.

17 6. The fee assessed by this subsection is to be a charge to  
18 waste producers in addition to any charges specified in any contract  
19 or elsewhere. The fee shall be imposed upon and passed through to  
20 disposers of waste using the facility.

21 7. The owner or operator of a solid waste disposal site or  
22 incinerator shall collect the fee levied pursuant to this subsection  
23 as trustee for the state and shall prepare and file with the  
24 Department quarterly returns indicating:

- 1           a.    the total tonnage of solid wastes received for  
2                    disposal or incineration at the gate of the site, and  
3           b.    the total amount of the fees collected pursuant to  
4                    this section.

5           8.    Not later than thirty (30) days after the end of the quarter  
6 to which such a return applies, the owner or operator shall mail to  
7 the Department the return for that quarter together with the fees  
8 collected during that quarter as indicated on the return.

9           9.    The owner or operator may receive an extension of not more  
10 than thirty (30) days for filing the return and remitting the fees,  
11 provided that:

- 12           a.    the owner or operator has submitted a request for an  
13                    extension in writing to the Department together with a  
14                    detailed description of why the extension is  
15                    requested,  
16           b.    the Department has received the request not later than  
17                    the day on which the return is required to be filed,  
18                    and  
19           c.    the Department has approved the request.

20           10.  For any quarterly return filed more than thirty (30) days  
21 after the last day of the quarter or extension date, the owner or  
22 operator shall remit an additional five percent (5%) of the fees  
23 collected during the month to which the return applies.  If the fees  
24 are not remitted within sixty (60) days of the last day of the

1 quarter during which they were collected, the owner or operator  
2 shall pay an additional fifteen percent (15%) of the amount of the  
3 fees for each month that they are late.

4 11. If the owner or operator misrepresents, or fails to  
5 properly measure or record, the amount of waste received or fails to  
6 remit fees within sixty (60) days after the last day of the quarter  
7 during which they were collected, the permit for the landfill  
8 disposal site or incinerator shall be summarily suspended by order  
9 and the Department shall initiate the process of revoking the permit  
10 and may require closure of the landfill or incinerator.

11 C. 1. The Department shall expend funds collected pursuant to  
12 the provisions of this section solely for the administration and  
13 enforcement of the provisions of the Oklahoma Solid Waste Management  
14 Act and for the development of solid waste technical assistance  
15 programs, solid waste public environmental education programs and  
16 educational curricula, solid waste studies, development of a  
17 statewide solid waste plan, solid waste recycling and litter  
18 prevention programs, and other environmental improvements.

19 2. In order to assist the Department of Environmental Quality  
20 regarding its responsibilities relating to the promotion of  
21 recycling of solid waste, each fiscal year the Department shall  
22 contract with units of local government, political subdivisions of  
23 this state, components of The Oklahoma State System of Higher  
24 Education, local and statewide organizations representing

1 municipalities or counties, or substate planning districts  
2 recognized by the Oklahoma Department of Commerce, for up to a total  
3 of One Hundred Thousand Dollars (\$100,000.00) and to the extent such  
4 monies are available for projects promoting the recycling of solid  
5 waste. Local governments, political subdivisions of this state,  
6 components of The Oklahoma State System of Higher Education, local  
7 and statewide organizations representing municipalities and counties  
8 and substate planning districts recognized by the Oklahoma  
9 Department of Commerce desiring to contract with the Department for  
10 such projects shall meet the application requirements of rules  
11 promulgated by the Environmental Quality Board and the criteria  
12 established by a recycling priorities plan prepared annually by the  
13 Department after review and comment by the Solid Waste Management  
14 Advisory Council. Except as otherwise provided by this section,  
15 contracts for such projects shall not be granted to state agencies.

16 3. Any litter prevention program shall be developed by the  
17 Department in conjunction with the Department of Transportation.

18 4. a. To the extent that funds are available, the Department  
19 may also reimburse any governmental entity for  
20 equipment other than motor vehicles or buildings to  
21 separate, process, modify, convert or treat solid  
22 waste or recovered materials so that the resulting  
23 product is being used in a productive manner.

24

1           b.    The reimbursements shall be from solid waste fee funds  
2                    and shall not exceed twenty-five percent (25%) of the  
3                    person's total project costs.  No reimbursement may be  
4                    larger than Twenty Thousand Dollars (\$20,000.00).

5           c.    Reimbursements must be expended in accordance with  
6                    rules promulgated by the Environmental Quality Board  
7                    and criteria established through the Department's  
8                    annual recycling priorities plan.  The Department  
9                    shall not expend more than Two Hundred Thousand  
10                   Dollars (\$200,000.00) in each fiscal year for such  
11                   reimbursements, nor shall the Department reimburse  
12                   ~~waste~~ waste used tire recycling facilities that may be  
13                   eligible for compensation from the ~~Waste~~ Used Tire  
14                   Recycling Indemnity Fund.

15        5.    a.    The Department, in conjunction with the Corporation  
16                    Commission, the Oklahoma Energy Resources Board and  
17                    the Oklahoma Conservation Commission, may develop a  
18                    plan to use suitable portions of the solid waste  
19                    stream to reclaim Oklahoma lands damaged by oil and  
20                    gas exploration and production or by mining  
21                    activities.

22           b.    To the extent that funds are available, the Department  
23                    may use up to ten percent (10%) of the annual income  
24                    from the fees received pursuant to the provisions of

1 this section to implement the plan. The Department  
2 may use its discretion in administering the funds for  
3 the purpose of this paragraph, but shall keep records  
4 subject to audit by the State Auditor and Inspector  
5 for good business practices.

6 6. a. To the extent that funds are available, after having  
7 reasonably met other specified uses of the solid waste  
8 fund, the Department is authorized to expend up to  
9 five percent (5%) of the total annual solid waste fee  
10 income for the purpose of making incentive payments to  
11 any person, firm or corporation located in this state  
12 generating energy by utilizing solid waste landfill  
13 methane or steam produced by a commercial incinerator.

14 b. The Environmental Quality Board shall promulgate rules  
15 to administer the provisions of this paragraph.

16 c. No person, firm or corporation shall be eligible to  
17 receive incentive payments as provided in subparagraph  
18 a of this paragraph for more than three (3) years.  
19 The amount of such payments shall be determined by the  
20 Department based on the amount of energy generated and  
21 the cost of production.

22 D. The provisions of this section shall not apply to landfill  
23 disposal sites that receive only ash generated by the burning of  
24 coal.

1 E. On or before September 1 of each year, the Department of  
2 Environmental Quality shall prepare a report of income and  
3 expenditures for the period of each fiscal year in which solid waste  
4 fee monies authorized by this section were received and such report  
5 shall be distributed to members of the Solid Waste Management  
6 Advisory Council for review. By November 1 of each year, the  
7 Council shall submit to the Executive Director, Governor, Speaker of  
8 the House of Representatives and President Pro Tempore of the Senate  
9 its written comments on the comparison of income with program  
10 expenditures.

11 SECTION 11. This act shall become effective July 1, 2011.

12 SECTION 12. It being immediately necessary for the preservation  
13 of the public peace, health and safety, an emergency is hereby  
14 declared to exist, by reason whereof this act shall take effect and  
15 be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, dated 4-7-11 - DO PASS.

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