

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 426

By: Leewright and Sparks of the
Senate

3

and

4

Pfeiffer of the House

5

6

7 [used tires - Used Tire Recycling Indemnity Fund
8 expenditures - used tire recycling and TDF facilities
- Department of Environmental Quality - effective
9 date]

9

10

11 AUTHOR: Add the following House Coauthor: Hilbert

12 AMENDMENT NO. 1. Replace the stricken title, enacting clause and
13 entire bill and insert

13

14

15 "An Act relating to used tires; amending 27A O.S.
16 2011, Sections 2-11-401.1, 2-11-401.2, 2-11-401.4, as
17 amended by Section 1, Chapter 287, O.S.L. 2014 and 2-
18 11-401.7 (27A O.S. Supp. 2016, Section 2-11-401.4),
19 which relate to the Oklahoma Used Tire Recycling Act;
20 deleting definitions; adding definitions; modifying
21 definitions; modifying fee schedule for certain
22 tires; implementing fee for certain tires;
23 implementing fee for certain vehicles; removing
24 requirement for Department of Environmental Quality
to maintain list of tires subject to fees;
eliminating certain exemptions for certain vehicles;
recalculating amount of fee to be remitted by motor
license agent; expanding eligible Used Tire Recycling
Indemnity Fund expenditures; removing requirement for
used tire recycling facilities to collect and
transport certain tires; eliminating availability of
certain funds for erosion control projects; excluding
certain monies from being disbursed from Used Tire
Recycling Indemnity Fund; updating language;

24

1 directing disbursement of certain monies to the
2 Department of Environmental Quality for certain
3 costs; specifying compensation rate for certain
4 tires; instructing certain used tire recycling and
5 TDF facilities to report and certify number of tires;
6 limiting accrued funding for certain purposes;
7 specifying compensable tasks; conforming language;
8 modifying list of prohibited acts; authorizing
9 citation for prohibited acts; disbursing monies from
10 citations; making certain violations separate
11 violations; repealing 27A O.S. 2011, Section 2-11-
12 401.5, as amended by Section 2, Chapter 287, O.S.L.
13 2014 (27A O.S. Supp. 2016, Section 2-11-401.5), which
14 relates to excess monies in the Used Tire Recycling
15 Indemnity Fund; and providing an effective date.

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

17 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.1,
18 is amended to read as follows:

19 Section 2-11-401.1 As used in the Oklahoma Used Tire Recycling
20 Act:

21 1. "Automotive dismantler and parts recycler" means the same as
22 defined in Section 591.2 of Title 47 of the Oklahoma Statutes;

23 2. "Commission" means the Oklahoma Tax Commission;

24 3. "Crumb rubber" means fine particles of vulcanized rubber
resulting from mechanical or cryogenic size reduction of used tires;

4. "Department" means the Department of Environmental Quality;

5. ~~"Erosion control project" means a project involving the
utilization of used tires for erosion control, bank stabilization or
other conservation project;~~

1 ~~6.~~ "Fund" means the Used Tire Recycling Indemnity Fund;

2 ~~7.~~ 6. "Motorcycle" means a motor vehicle of a type defined in
3 Section 1-135 of Title 47 of the Oklahoma Statutes;

4 ~~8.~~ 7. "Motor-driven cycle" means a motor vehicle of a type
5 defined in Section 1-136 of Title 47 of the Oklahoma Statutes;

6 ~~9.~~ ~~"Motorized bicycle" means a motor vehicle of a type defined~~
7 ~~in Section 1-136.1 of Title 47 of the Oklahoma Statutes;~~

8 ~~10.~~ 8. "Motor vehicle" means the same as defined in Section 1-
9 134 of Title 47 of the Oklahoma Statutes;

10 ~~11.~~ 9. "Priority cleanup list" means a list, created and
11 maintained by the Department, of:

12 a. unpermitted dumps which did not exist when the owner
13 took possession of the property where the tires are
14 located, and were created without the consent of or
15 benefit to the owner of the property, and

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

18 10. "Reusable tire" means a tire that has been previously used
19 on a vehicle, not currently mounted on a vehicle, but can be legally
20 placed into service for vehicle use in Oklahoma;

21 11. "Semitrailer" means the same as defined in Section 1-162 of
22 Title 47 of the Oklahoma Statutes;

23 12. "Tire" means any solid or air-filled covering for ~~motor~~
24 vehicle wheels;

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

3 14. "Tire-derived fuel facility" or "TDF facility" means a
4 facility that uses processed tires or whole used tires for energy or
5 fuel recovery;

6 15. "Trailer" means the same as defined in Section 1-180 of
7 Title 47 of the Oklahoma Statutes;

8 16. "Used tire recycling facility" means any place which is
9 permitted as a solid waste disposal site, in accordance with the
10 Oklahoma Solid Waste Management Act, at which used tires are
11 processed;

12 ~~16.~~ 17. "Used tire processing" means altering the form of whole
13 used tires by shredding, chipping, or other method approved by the
14 Department, except baling and pyrolysis; ~~and~~

15 ~~17.~~ 18. "Used tire" means an unprocessed whole tire or tire
16 part that can no longer be used for its ~~original~~ originally intended
17 purpose but can be beneficially reused as approved by the
18 Department. Any used tire collected in accordance with the
19 requirements of the Oklahoma Used Tire Recycling Act is not
20 considered to be discarded. A tire that can be used, reused or
21 legally modified to be reused for its original intended purpose
22 shall not be a used tire; and

23 19. "Vehicle" means the same as defined in Section 1-186 of
24 Title 47 of the Oklahoma Statutes.

1 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-11-401.2,
2 is amended to read as follows:

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

6 a. at the time any tire:

7 (1) with a rim diameter of less than or equal to
8 nineteen and one-half (19 1/2) inches is sold by
9 a tire dealer, there shall be assessed a used
10 tire recycling fee of Two Dollars and fifty cents
11 (\$2.50) per tire,

12 (2) with a rim diameter greater than nineteen and
13 one-half (19 1/2) inches and a tread width of
14 twelve (12) inches or less is sold by a tire
15 dealer, there shall be assessed a used tire
16 recycling fee of Three Dollars and fifty cents
17 (\$3.50) per tire,

18 (3) with a rim diameter greater than nineteen and
19 one-half (19 1/2) inches and a tread width of
20 greater than twelve (12) inches is sold by a tire
21 dealer, there shall be assessed a used tire
22 recycling fee of Seven Dollars (\$7.00) per tire,
23 and

24

1 ~~(3)~~ (4) is sold by a tire dealer for use on a motorcycle,
2 or motor-driven cycle ~~or motorized bicycle~~, there
3 shall be assessed a used tire recycling fee of
4 One Dollar (\$1.00) per tire,

5 b. at any time a motor vehicle with a tire rim diameter
6 of less than or equal to nineteen and one-half (19
7 1/2) inches is first registered in this state, there
8 shall be assessed a used tire recycling fee of Two
9 Dollars and fifty cents (\$2.50) per tire, except as
10 otherwise provided by ~~subparagraph d~~ subparagraphs e
11 and f of this paragraph,

12 c. at any time a ~~motor~~ vehicle with a tire rim diameter
13 of greater than nineteen and one-half (19 1/2) inches
14 is first registered in this state, there shall be
15 assessed a used tire recycling fee of Three Dollars
16 and fifty cents (\$3.50) per tire, except as otherwise
17 provided by ~~subparagraph d~~ subparagraphs e, f and g of
18 this paragraph, ~~and~~

19 d. at any time a trailer or semitrailer with a tire rim
20 diameter of less than or equal to nineteen and one-
21 half (19 1/2) inches is first titled in this state,
22 there shall be assessed a used tire recycling fee of
23 Two Dollars and fifty cents (\$2.50) per tire,
24

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

5 f. at the time a motor vehicle is first titled in this
6 state, to be registered under the provisions of
7 Section 1120 of Title 47 of the Oklahoma Statutes,
8 there shall be assessed a used tire recycling fee of
9 Seven Dollars (\$7.00), and

10 g. at the time a trailer or semitrailer is first titled
11 in this state, to be registered under the provisions
12 of Section 1133 of Title 47 of the Oklahoma Statutes,
13 there shall be assessed a used tire recycling fee of
14 Five Dollars (\$5.00).

15 2. ~~Motor vehicles registered pursuant to Section 1120 of Title~~
16 ~~47 of the Oklahoma Statutes shall be exempt from the provisions of~~
17 ~~this subsection.~~

18 3. No fee shall be assessed by a tire dealer for ~~used~~ reusable
19 tires or retreaded tires for which the tire dealer can document that
20 the recycling fee has been previously paid.

21 4. 3. All-terrain vehicles and off-road motorcycles registered
22 pursuant to the provisions of Section 1132 of Title 47 of the
23 Oklahoma Statutes shall be exempt from the provisions of this
24 section.

1 B. 1. ~~Except as otherwise provided by this section, beginning~~
2 ~~July 1, 2010, tires used on implements of husbandry and agricultural~~
3 ~~equipment that are not more than fourteen (14) inches wide and~~
4 ~~forty-four (44) inches in diameter shall be assessed a used tire~~
5 ~~recycling fee of five cents (\$0.05) per pound of the weight of the~~
6 ~~tire, with a minimum fee of Two Dollars and fifty cents (\$2.50) per~~
7 ~~tire. Beginning July 1, 2013, tires used on implements of husbandry~~
8 ~~and agricultural equipment that are any size shall be assessed a~~
9 ~~used tire recycling fee of five cents (\$0.05) per pound of the~~
10 ~~weight of the tire, with a minimum fee of Two Dollars and fifty~~
11 ~~cents (\$2.50) per tire~~ For tires used on implements of husbandry and
12 agricultural equipment with a rim diameter of less than or equal to
13 nineteen and one-half (19 1/2) inches and that are less than thirty
14 (30) inches in total diameter, there shall be assessed a used tire
15 recycling fee of Two Dollars and fifty cents (\$2.50) per tire.

16 2. ~~The Department shall maintain a list of agricultural tire~~
17 ~~weights for tires subject to the assessment and make that list~~
18 ~~available to tire dealers upon request~~ For tires used on implements
19 of husbandry and agricultural equipment with a rim diameter of
20 greater than nineteen and one-half (19 1/2) inches and that are less
21 than thirty (30) inches in total diameter, there shall be assessed a
22 used tire recycling fee of Three Dollars and fifty cents (\$3.50) per
23 tire.

24

1 3. ~~No fee shall be assessed by a tire dealer if the customer~~
2 ~~retains the used agricultural tire for use on a farm or ranch~~ For
3 tires used on implements of husbandry and agricultural equipment
4 that are greater than thirty (30) inches in total diameter and less
5 than or equal to forty-four (44) inches in total diameter, there
6 shall be assessed a used tire recycling fee of Eight Dollars (\$8.00)
7 per tire. No fee shall be assessed by a tire dealer if the customer
8 retains the used agricultural tire for use on a farm or ranch. The
9 customer may return the used tire to the tire dealer at a later date
10 and shall be assessed the proper fee.

11 4. For tires used on implements of husbandry and agricultural
12 equipment that are greater than forty-four (44) inches in total
13 diameter and less than or equal to seventy-two (72) inches in total
14 diameter and not more than thirty (30) inches wide, there shall be
15 assessed a used tire recycling fee of Sixteen Dollars (\$16.00) per
16 tire. No fee shall be assessed by a tire dealer if the customer
17 retains the used agricultural tire for use on a farm or ranch. The
18 customer may return the used tire to the tire dealer at a later date
19 and shall be assessed the proper fee.

20 5. A tire dealer may pay the assessed fee for any used
21 agricultural tire in current inventory and include that tire in the
22 used tire recycling program.
23
24

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

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

8 3. Motor license agents shall remit ~~all but One Dollar (\$1.00)~~
9 ninety percent (90%) of the fee assessed on each vehicle registered.

10 4. Failure to remit the fee at the time of filing the returns
11 shall cause the fee to become delinquent. If the fee becomes
12 delinquent the tire dealer or motor license agent forfeits any claim
13 to the discount authorized by this section and shall remit to the
14 Tax Commission one hundred percent (100%) of the amount of the fee
15 due plus any penalty due.

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

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

1 F. All penalties or interest imposed by this section shall be
2 recoverable by the Tax Commission as a part of the fee imposed and
3 all penalties and interest shall be apportioned the same as the fee
4 on which the penalties or interest are collected.

5 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
6 as amended by Section 1, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
7 2016, Section 2-11-401.4), is amended to read as follows:

8 Section 2-11-401.4 A. Compensation to used tire facilities and
9 tire-derived fuel or TDF facilities pursuant to this section shall
10 be limited to facilities located in Oklahoma. Compensation for used
11 tire activities pursuant to this section shall be limited to used
12 tires from Oklahoma. A used tire recycling facility or tire-derived
13 fuel or TDF facility may transport and deliver used tires collected
14 from Oklahoma to an out-of-state used tire recycling facility or TDF
15 facility but shall not be eligible for compensation from the Used
16 Tire Recycling Indemnity Fund for those used tires. To be eligible,
17 applicants for compensation shall be in compliance with the Oklahoma
18 Used Tire Recycling Act.

19 B. The monies accruing annually to the Used Tire Recycling
20 Indemnity Fund shall be allocated first to the Department of
21 Environmental Quality Revolving Fund, to be used for implementing
22 applicable requirements related to the control of mobile and area
23 sources of air emissions, for monitoring and modeling the impacts on
24 Oklahoma of air pollution from other states, ~~and~~ for implementing

1 and enforcing other applicable air pollution control requirements or
2 for other environmental programs or projects. The amount of money
3 allocated for this purpose shall be twenty-eight percent (28%) of
4 the funds produced by the two-dollar-and-fifty-cent per tire fee
5 assessed pursuant to division (1) of subparagraph a of paragraph 1
6 of subsection A of Section 2-11-401.2 of this title and subparagraph
7 b of paragraph 1 of subsection A of Section 2-11-401.2 of this
8 title. After this allocation is deducted, the balance of the monies
9 shall be allocated as follows:

10 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax
11 Commission and five and three-fourths percent (5.75%) to the
12 Department of Environmental Quality for the purpose of administering
13 the requirements of the Oklahoma Used Tire Recycling Act; and

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

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

22 1. Compensation to used tire facilities for used tire
23 processing, at the rate of Fifty-four Dollars (\$54.00) per ton of
24

1 processed tire material. For compensation the following conditions
2 shall apply:

3 a. facilities that process used tires by altering the
4 form of the used tires but do not produce crumb rubber
5 shall not receive compensation until the facility
6 documents the sale and movement of the processed used
7 tire material off-site to a third party,

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

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

21 2. a. Compensation to used tire recycling facilities or TDF
22 facilities at the rate of Fifty-three Dollars (\$53.00)
23 per ton of whole used tires for the collection and
24 transportation of used tires from Oklahoma tire

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

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

21 c. No tire dealer shall charge any customer any
22 additional fee for the management, recycling, or
23 disposal of any used tire upon which the used tire
24 recycling fee has been remitted to the Tax Commission.

1 For customers who choose not to leave a used tire upon
2 which the used tire recycling fee has been remitted to
3 the Tax Commission, the tire dealer shall issue a
4 receipt which entitles the customer to deliver the
5 used tire to the dealer at a later date.

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

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

15 (2) provide documentation to the Department, signed
16 by a dealer at the time of collection, which
17 certifies 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, and

21 (3) annually demonstrate that at least three to six
22 percent (3-6%) of the tires were collected from
23 tire dumps or landfills on the Department
24 priority cleanup list or community-wide cleanup

1 events approved by the Department. The
2 Department is authorized to determine
3 periodically the applicable percentage within the
4 specified range set forth in this division based
5 on the number of tires remaining in illegal dumps
6 and available funding.

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

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

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

12 b. ~~Reimbursement under this paragraph shall be subject to~~
13 ~~the following:~~

- 14 ~~(1) the applicant for reimbursement collects or~~
15 ~~provides for the collection and utilization of~~
16 ~~used tires in an erosion control project in~~
17 ~~Oklahoma in accordance with a written plan~~
18 ~~approved by the United States Army Corps of~~
19 ~~Engineers or by a local Conservation District,~~
20 ~~(2) the used tires are collected and transported to~~
21 ~~the site of the erosion control project,~~
22 ~~(3) the site landowner agrees to plant trees or other~~
23 ~~suitable vegetation in accordance with a planting~~
24 ~~plan developed in conjunction with the Division~~

1 ~~of Forestry of the Oklahoma Department of~~
2 ~~Agriculture, Food, and Forestry,~~

3 ~~(4) the applicant reports and certifies the number of~~
4 ~~used tires utilized. The applicant shall by~~
5 ~~sworn affidavit provide to the Department~~
6 ~~sufficient information to verify that the~~
7 ~~applicant has utilized the tires in accordance~~
8 ~~with the purposes of the Oklahoma Used Tire~~
9 ~~Recycling Act,~~

10 ~~(5) the applicant annually demonstrates that at least~~
11 ~~three to six percent (3-6%) of the tires utilized~~
12 ~~by the applicant for which compensation is~~
13 ~~requested were collected from tire dumps or~~
14 ~~landfills on the Department priority cleanup list~~
15 ~~or community wide cleanup events approved by the~~
16 ~~Department. The Department is authorized to~~
17 ~~determine periodically the applicable percentage~~
18 ~~within the specified range as set forth in this~~
19 ~~division based on the number of tires remaining~~
20 ~~in illegal dumps and available funding,~~

21 ~~(6) the applicant demonstrates to the satisfaction of~~
22 ~~the Department that the applicant is regularly~~
23 ~~engaged in the collection, transportation and~~
24 ~~delivery to erosion control projects of used~~

1 ~~tires, on a statewide basis, and from each county~~
2 ~~of the state, at no additional cost to the tire~~
3 ~~dealer or automotive dismantler and parts~~
4 ~~recycler or to the Fund, and~~

5 ~~(7) the applicant provides documentation to the~~
6 ~~Department, signed by a dealer at the time of~~
7 ~~collection, which certifies remittance of~~
8 ~~appropriate fees to the Oklahoma Tax Commission~~
9 ~~as a participating tire dealer pursuant to the~~
10 ~~provisions of the Oklahoma Used Tire Recycling~~
11 ~~Act.~~

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

20 ~~d. Compensation pursuant to this paragraph shall be~~
21 ~~payable only for the tires collected and utilized in~~
22 ~~accordance with the purposes of the Oklahoma Used Tire~~
23 ~~Recycling Act and as authorized by the Department.~~

24 ~~During the course of the erosion control project, the~~

1 ~~Department may determine the amount of and authorize~~
2 ~~partial compensation, as tires are utilized in~~
3 ~~accordance with the written plan.~~

4 ~~e. Any entity deemed eligible for reimbursement under the~~
5 ~~provisions of this paragraph shall be liable for the~~
6 ~~erosion control project for a period of five (5)~~
7 ~~years. During the five year period, if additional~~
8 ~~cleanup or remediation of an erosion control project~~
9 ~~is required due to failure or negligence on the part~~
10 ~~of the original contractor, the original contractor~~
11 ~~shall be responsible for cleanup costs and shall not~~
12 ~~be eligible for any additional compensation from the~~
13 ~~Fund for costs related to that erosion control~~
14 ~~project;~~

15 ~~4.~~ a. Compensation to a unit of local or county government
16 that submits to the Department for approval a plan for
17 the use of baled used tires in an engineering project.
18 Compensation shall be at the rate of fifty cents
19 (\$0.50) per tire.

20 b. The plan shall be approved by the Department before
21 construction of the project begins.

22 c. Any unit of local or county government baling used
23 tires shall not accumulate more than fifty used tire
24

1 bales prior to beginning construction of an approved
2 project.

3 d. Used tires baled pursuant to this paragraph cannot be
4 obtained from tire manufacturers, retailers,
5 wholesalers, retreaders, or automotive dismantlers and
6 parts recyclers.

7 e. Any unit of local or county government authorized to
8 receive reimbursement for the use of baled used tires
9 in an engineering project shall report and certify
10 whole used tires by number. The governmental unit
11 shall by sworn affidavit provide sufficient
12 information to the Department to verify that the unit
13 has utilized the tires in accordance with the purposes
14 of the Oklahoma Used Tire Recycling Act; and

15 ~~5.~~ 4. If the Fund contains insufficient funds in any month to
16 satisfy the eligible reimbursements under this subsection, the
17 Department shall determine the apportionment of payments to be made
18 among the qualified applicants under this subsection according to
19 the percentage of used tires processed, collected and transported,
20 or utilized.

21 D. 1. After the allocations under subsections B and C of this
22 section are made, any remaining monies in the Fund shall be
23 available for TDF facilities and used tire recycling facilities that
24 produce crumb rubber for compensation at the rate of Twenty-nine

1 Dollars (\$29.00) per ton of processed or used tires utilized for
2 energy or fuel recovery or the production of crumb rubber.

3 2. The production of crumb rubber shall be considered a
4 compensable event separate from and in addition to any compensation
5 for used tire processing under subsection C of this section.

6 3. TDF facilities and used tire recycling facilities authorized
7 to receive reimbursement under this subsection shall report and
8 certify tire material used by weight.

9 4. The facilities shall by sworn affidavit provide to the
10 Department sufficient information to verify that the facility has
11 used the tires in accordance with the purposes of the Oklahoma Used
12 Tire Recycling Act.

13 5. If the Fund contains insufficient funds in any month to
14 satisfy the eligible reimbursements under this subsection, the
15 Department shall determine the apportionment of payments to be made
16 among the qualified applicants according to the percentage of used
17 tires intended for energy or fuel recovery or the production of
18 crumb rubber.

19 E. 1. After the allocations under subsections B, C and D of
20 this section are made, any remaining monies in the Fund shall be
21 available for capital investment reimbursement to used tire
22 facilities and TDF facilities for the purchase of equipment
23 necessary to utilize used tires. Only equipment purchased on or
24 after January 1, 1995, shall be eligible. The facilities are

1 eligible for compensation at a rate of Twenty Dollars (\$20.00) per
2 ton of used tires used. Total reimbursement shall not exceed one
3 hundred percent (100%) of the capital investment in eligible
4 equipment. The facilities may apply for compensation monthly to the
5 Department of Environmental Quality and shall supply any information
6 required by the Department.

7 2. If the Fund contains insufficient funds in any month to
8 satisfy the eligible reimbursements under this subsection, the
9 Department shall determine the apportionment of payments to be made
10 among the qualified applicants.

11 F. ~~After~~ Subject to subsection G of this section, after the
12 allocations under subsections B, C, D and E of this section are
13 made, any remaining monies in the Fund, excluding monies collected
14 pursuant to paragraphs 3 and 4 of subsection B of Section 2-11-401.2
15 of this title, shall be disbursed as ~~additional~~ follows:

16 1. Additional compensation to used tire recycling facilities or
17 TDF facilities for the remediation of dumps certified by the
18 Department and delivering the tires to a used tire recycling
19 facility or a TDF facility. The Department shall determine
20 additional compensation made to qualified applicants under this
21 subsection based on cleanup feasibility of the dump. ~~By July 1,~~
22 ~~2012, the~~ The Board shall promulgate rules establishing unit costs
23 for compensation based on the remediation feasibility of the tire
24 dumps. The Department may solicit bids for the remediation of tire

1 dumps if no used tire recycling facilities or TDF facilities agree
2 to remediate a priority tire dump authorized by the Department or if
3 the Department determines the qualified applicant has not remediated
4 the tires in the tire dump to meet reference conditions of
5 comparable property in the immediate area; and

6 2. Reimbursement to the Department of Environmental Quality for
7 necessary costs associated with remediation or other necessary
8 actions at sites at which used tires or other wastes incidental to
9 the used tires present a threat to human health or environment, or
10 for projects to increase market demand for products made from
11 Oklahoma used tires. The Solid Waste Management Advisory Council
12 shall recommend and the Environmental Quality Board shall adopt
13 rules governing the types of market development projects that may
14 qualify for reimbursement. To the extent possible, the rules shall
15 favor and the Department shall prioritize projects with the greatest
16 potential to benefit schools, communities and local governments.
17 Upon its receipt of documentation from the Department showing
18 expenditures relating to the remediation of such sites or market
19 development projects, the Tax Commission shall reimburse the
20 Department for its documented expenditures.

21 G. Accrued funding for the purposes specified in subsection F
22 of this section shall not exceed Five Hundred Thousand Dollars
23 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is
24

1 reached, any additional funds shall be distributed as additional
2 compensation under paragraph 1 of subsection C of this section.

3 H. 1. Used tire recycling facilities and TDF facilities that
4 collect, transport and process tires used on implements of husbandry
5 and agricultural equipment that are greater than thirty (30) inches
6 in total diameter and less than or equal to forty-four (44) inches
7 in total diameter shall be eligible for compensation at a rate of
8 Eight Dollars (\$8.00) per tire.

9 a. Collection, transportation and processing of tires
10 under this paragraph shall be considered a compensable
11 event separate from and in addition to any
12 compensation under subsection C of this section.

13 b. Used tire recycling facilities and TDF facilities
14 authorized to receive reimbursement under this
15 paragraph shall report and certify the number of tires
16 collected and transported.

17 2. Used tire recycling facilities and TDF facilities that
18 collect, transport and process tires used on implements of husbandry
19 and agricultural equipment that are greater than forty-four (44)
20 inches in total diameter and less than or equal to seventy-two (72)
21 inches in total diameter and not more than thirty (30) inches wide,
22 shall be eligible for compensation at the rate of Sixteen Dollars
23 (\$16.00) per tire.

1 a. Collection, transportation and processing of tires
2 under this paragraph shall be considered a compensable
3 event separate from and in addition to any
4 compensation under subsection C of this section.

5 b. Used tire recycling facilities and TDF facilities
6 authorized to receive reimbursement under this
7 paragraph shall report and certify the number of tires
8 collected and transported.

9 I. Used tire recycling facilities, TDF facilities, or persons,
10 corporations or other legal entities authorized by the provisions of
11 the Oklahoma Used Tire Recycling Act to receive reimbursement shall
12 demonstrate that the facilities or legal entities have successfully
13 complied with the requirements of the Oklahoma Used Tire Recycling
14 Act through the filing of appropriate applications, reports, and
15 other documentation that may be required by the Tax Commission and
16 the Department.

17 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-11-401.7,
18 is amended to read as follows:

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

21 1. Own or operate a site used for the storage, collection or
22 disposal of more than fifty used tires except at a site or facility
23 permitted or approved by the Department of Environmental Quality to
24 accept used tires. The provisions of this paragraph shall not apply

1 to tire manufacturers, retailers, wholesalers and retreaders who
2 store a total of no more than two thousand five hundred ~~or fewer~~
3 used tires at their place of business or ~~designated~~ an ancillary
4 off-premises storage site approved by the Department;

5 2. Dispose of used tires at any site or facility other than a
6 site or facility for which a permit has been issued, or which has
7 been otherwise authorized by the Department;

8 3. Knowingly transport or knowingly allow used tires under the
9 control or in the possession of the person to be transported to an
10 unpermitted or unapproved site or facility; ~~or~~

11 4. Remove more than ten used tires or reusable tires from the
12 possession of the dealer unless the dealer provides a manifest form,
13 approved by the Department, which documents the removal and approved
14 disposition or sale of the tires and which accompanies the tires in
15 transport. Dealers, haulers, and used tire recycling facilities
16 shall keep copies of manifests available for inspection for five (5)
17 years; or

18 5. Sell any tire without collecting and remitting appropriate
19 fees to the Tax Commission in accordance with Section 2-11-401.2 of
20 this title.

21 B. The provisions of subsection A of this section shall not
22 apply to the use of used tires for agricultural purposes as
23 recognized by the Oklahoma Department of Agriculture, Food, and
24 Forestry.

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

7 D. The provisions of paragraphs 2 and 3 of subsection A of this
8 section shall not be construed to prevent a used tire recycling
9 facility or tire-derived fuel or TDF facility from transporting and
10 delivering used tires to an out-of-state used tire recycling
11 facility or TDF facility.

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

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

22 3. The Department shall deposit any excess funds recovered
23 through such action into the Used Tire Recycling Indemnity Fund.
24

1 F. Notwithstanding the provisions of Section 2-3-504 of this
2 title or any other remedy authorized by law, any peace officer of
3 this state or of any political subdivision of this state may issue a
4 citation to any person committing a violation of paragraph 1, 2, 3
5 or 4 of subsection A of this section. Such citation shall be in an
6 amount not to exceed One Hundred Dollars (\$100.00) for the first
7 offense, not to exceed Two Hundred Dollars (\$200.00) for the second
8 offense and not to exceed Five Hundred Dollars (\$500.00) for the
9 third or subsequent offense. The penalties collected from the
10 payment of such citations shall not include court costs and shall be
11 divided as follows:

12 1. One-half (1/2) shall be paid into the reward fund created
13 pursuant to Section 1334 of Title 22 of the Oklahoma Statutes; and

14 2. One-half (1/2) shall be paid into the Sheriff's Service Fee
15 Account for that county to be used for environmental enforcement and
16 cleanup programs.

17 SECTION 5. REPEALER 27A O.S. 2011, Section 2-11-401.5,
18 as amended by Section 2, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
19 2016, Section 2-11-401.5), is hereby repealed.

20 SECTION 6. This act shall become effective November 1, 2017."
21
22
23
24

