

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1387

By: Leist

AS INTRODUCEDAn Act relating to environment and natural resources; amending 68 O.S. 1991, Sections 53001, as amended by Section 191, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, 53002, as amended by Section 192, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, 53003, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 42, Chapter 324, O.S.L. 1993, 53004, as amended by Section 194, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 36, Chapter 353, O.S.L. 1994, 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 37, Chapter 353, O.S.L. 1994, 53007, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 39, Chapter 353, O.S.L. 1994, 53008, as amended by Section 198, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, 53009, as amended by Section 199, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, 53010, as amended by Section 200, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993, and Section 38, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Sections 2-11-401, 2-11-402, 2-11-403, 2-11-404, 2-11-405, 2-11-406, 2-11-407, 2-11-408, 2-11-409, 2-11-410 and 2-11-411), which relate to the Oklahoma Waste Tire Recycling Act; amending 63

O.S. 1991, Section 1-2325, as amended by Section 158, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-10-601), which relates to powers and duties of the Environmental Quality Board; adding legislative findings; changing name of act; modifying definitions; setting policy; modifying and adding to the powers and duties of the Environmental Quality Board; establishing a waste tire manifest system; adding to powers and duties of the Department of Environmental Quality; specifying certain duties of registered waste haulers; providing for eligibility for certain reimbursements; providing for revocation and suspension of certain licenses; removing certain exemptions; changing name of Waste Tire Recycling Indemnity Fund to Waste Tire Recycling Promotion Fund; specifying certain conditions; removing certain requirements; modifying reporting requirements; authorizing certain counties to receive and store tires; providing for codification; providing for recodification; and providing an effective date.

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

ARTICLE XIII

OKLAHOMA WASTE TIRE MANAGEMENT ACT

Part 1. Short Title, Purpose and Definitions

SECTION 1. AMENDATORY 68 O.S. 1991, Section 53001, as amended by Section 191, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-401), is amended to read as follows:

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

B. The Legislature finds that:

1. Waste tires constitute a growing solid waste problem of considerable magnitude that is exacerbated by the fact that tires do not readily degrade or decompose;

2. The accumulation of waste tires constitutes a fire hazard and a threat to air and water quality;

3. Unmanaged waste tire sites encourage open dumping of other types of waste;

4. Waste whole or altered tires can be safely used for:

- a. erosion control, bank stabilization and other conservation management practices,
- b. recreational purposes at schools, parks, and playgrounds,
- c. agricultural purposes, and
- d. many other useful and environmentally sound purposes;

5. Waste tires can also afford a significant economic opportunity for recycling into new and useful products or as a source of fuel; and

6. State agencies need the ability to remove, or cause the removal of, waste tire accumulations as necessary to abate or correct hazards to public health and to protect the environment.

C. 1. It is the purpose of the Oklahoma Waste Tire Management Act to:

- a. encourage the use and reuse of whole and altered tires rather than ultimate disposal,
- b. ensure that waste tires are collected and are put to beneficial use or properly disposed of,
- c. encourage the development of waste tire processing facilities and technologies, including energy recovery, and
- d. provide for the abatement of waste tire dumps and associated threats to the public health and welfare.

2. It shall be the policy of this state to provide for the recovery, recycling and reuse of materials from waste tires. The following hierarchy shall be in effect for determining priorities for any financial assistance for programs providing state monies or state-operated programs providing financial assistance:

- a. processing of tires into marketable products,
- b. utilization of tires as a fuel or recycled material feedstock, including such products as tire-derived fuel, or recovered rubber for recycling into rubber or other products or as an asphalt additive,
- c. use of altered tires for agricultural, recreational or other useful and environmentally sound purposes,
- d. erosion control, bank stabilization and other conservation projects,
- e. total destruction of tires through primary shredding to produce a product for use as in road beds or other construction applications, or at a landfill or similar site for erosion control or cover, and
- f. total destruction of tires to a nonuniform product consistency for direct landfill disposal.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 53002, as amended by Section 192, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-402), is amended to read as follows:

Section 2-11-402. As used in the Oklahoma Waste Tire ~~Recycling~~ Management Act:

1. "Agricultural purposes" means the use of waste tires as bumpers on agricultural equipment or as a ballast to maintain covers or structures at an agricultural site or other uses specifically authorized and approved by the Oklahoma State Department of Agriculture;

2. "Altered tire" means a waste tire which has been altered so that it is no longer capable of holding accumulations of water, including, but not limited to, waste tires that have been shredded, chopped, drilled with holes sufficient to assure drainage, slit longitudinally and stacked so as not to collect water, or wholly or partially filled with cement or other material to prevent the accumulation of water. "Alteration" or "altering" means action which produces an altered tire;

3. "Consumer" means a person who purchases a new tire to satisfy a direct need, rather than for resale;

4. "Dispose" means to deposit any waste tire on any land or into any waters of the State of Oklahoma for final disposal or to ultimately destroy waste tires;

5. "New tire" means an originally manufactured tire and shall not include any remanufactured, recapped or otherwise restored tire;

2. 6. "Person" means the United States, the State of Oklahoma, or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity;

7. "Registered waste tire transporter" means a person who as a part of a commercial business:

a. transports waste tires,

b. is approved and registered by the Department to transport waste tires to a tire recycler, a waste tire collection facility or a waste tire processing facility, and

c. desires to receive reimbursement for the transportation of tires from the Waste Tire Recycling Promotion Fund;

8. "Store" or "storage" means the placing of waste tires in a manner that does not constitute disposal of the waste tires;

9. "Tire retailer" means any person engaged in the business of selling new tires;

10. "Tire wholesaler" means a person who transfers tires to a person who is not a consumer;

11. "Tires" means any solid or air-filled coverings for motor vehicle wheels; and

~~3.~~ 12. "Waste tire" means a tire that is not on the wheel of a vehicle and is no longer suitable for its original intended use due to wear, damage, defect, or deviation from the manufacturer's specifications, including, but not limited to, all used tires, altered waste tires, recappable casings and scrap tires. The term "waste tire" includes tires that have been altered by processes including, but not limited to, shredding, chopping and slicing;

13. "Waste tire collection facility" means a site licensed pursuant to the Solid Waste Management Act used for the storage or collection of more than fifty discarded vehicle tires under ten thousand (10,000) pounds. The term waste tire collection facility shall not include:

- a. sites at which tires are used for agricultural purposes, erosion control, bank stabilization or other conservation projects, or
- b. tire manufacturers, retailers, wholesalers, or retreaders who store two thousand five hundred (2,500) tires or less at their place of business or designated off-premises storage site;

14. "Waste tire disposal facility" means any place which is permitted as a solid waste disposal site in accordance with the Oklahoma Solid Waste Management Act at which waste tires are collected for ultimate disposal, including, but not limited to, places which utilize whole tires or altered tires for production of energy or energy recovery; and

15. "Waste tire processing facility" means any place which is permitted ~~as a solid waste disposal site,~~ in accordance with the Oklahoma Solid Waste Management Act, at which ~~discarded~~ waste tires are collected or deposited for processing, by shredding or other technology which alters the form of the tires, for the purpose of facilitating the future extraction of useful materials for recycling, reuse or energy recovery.

Part 2. Powers and Duties

SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-2325, as amended by Section 158, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-10-601), is amended to read as follows:

Section 2-10-601. A. ~~The Board shall promulgate rules for the permitting of waste tire facilities under the Solid Waste Management Act and for the administration of the certification of waste tire facilities for compensation under the provisions of the Oklahoma Waste Tire Recycling Act~~ governing waste tires which shall:

1. Provide for the registration of waste tire haulers meeting the standards and criteria established by the Board for the hauling of waste tires who desire to be and are eligible for reimbursement from the Waste Tire Recycling Promotion Fund;

2. Provide for the collection, distribution and reimbursement of monies required pursuant to the provisions of this article. The rules promulgated by the Board shall either establish and implement a plan for a regional collection system which shall be designed to promote the collection of waste tires on a statewide basis, or shall require that each registered waste tire recycler provide statewide service in the transportation of waste tires;

3. Establish a system of nonrefundable fees to be charged for registrations and licensure pursuant to this article;

4. Establish standards and guidelines for transporting, collection, disposal and recycling of waste tires; and

5. Otherwise provide for the implementation and enforcement of this article.

B. The rules promulgated pursuant to this section shall include the following proper requirements concerning the following:

1. Proper storage of waste tires;

2. Contingency plans concerning the minimization of hazards to human health and the environment at waste tire collection sites;

3. Recordkeeping guidelines concerning the quantity of waste tires collected, transported and processed;

4. The amount of any financial assurance required pursuant to the provisions of the Oklahoma Waste Tire Management Act; and

5. The establishment of the fee required by the provisions of the Oklahoma Waste Tire Management Act in an amount necessary to cover the costs incurred in administering the Oklahoma Waste Tire Management Act.

C. The rules shall be drawn to effectuate such provisions of the Waste Tire ~~Recycling~~ Management Act and the Solid Waste Management Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-13-202 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Board shall promulgate rules that establish a waste tire manifest system for registered waste tire transporters that complies with all of the following conditions:

1. The Board shall develop a waste tire manifest form that shall be completed and shall accompany each shipment of waste tires from the point of origin to the waste tire processing facility, waste tire collection facility, or waste tire disposal facility;

2. The manifest form shall be signed by the generator, the registered waste tire hauler, and the processing, collection, or disposal facility. Each party shall retain one copy of the manifest form; and

3. Each party required to sign a manifest shall maintain it for three (3) years and shall make it available for review during regular business hours.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-13-203 of Title 27A, unless there is created a duplication in numbering, reads as follows:

The Department shall have the power and duty to:

1. Issue, renew, suspend, revoke, refuse to renew, modify or deny any registration or license issued pursuant to the Oklahoma Waste Tire Management Act or the Solid Waste Management Act;

2. Enter upon public and private property for the purpose of inspecting licensed waste tire processing or collection or disposal facilities for compliance with the provisions of the Oklahoma Waste Tire Management Act and the rules of the Board promulgated thereto;

3. Supervise, administer and enforce the provisions of the Oklahoma Waste Tire Management Act and rules promulgated thereto;

4. Request the appropriate district attorney or the Attorney General to initiate prosecutions;

5. Assess and collect administrative penalties pursuant to Section 2-3-504 of the Environmental Code;

6. Keep a complete record of all registered waste tire transporters and to prepare an official listing of the names and addresses of all registered waste tire transporters which shall be kept current. A copy of such listing shall be available to any person requesting it upon payment of a copying fee established by the Board;

7. Keep a permanent record of all proceedings pursuant to the Oklahoma Waste Tire Management Act;

8. Conduct hearings for violations of the Oklahoma Waste Tire Management Act, and to issue subpoenas to compel witnesses to testify or produce evidence at such hearings in accordance with the Administrative Procedures Act;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under the Oklahoma Waste Tire Management Act including, but not limited to, contracts with the United States, other states, agencies and political subdivisions of this state;

10. Accept grants from the United States government, its agencies and instrumentalities, and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary and desirable; and

11. Otherwise exercise all incidental powers as necessary and proper to implement and enforce the provisions of the Oklahoma Waste Tire Management Act and the rules of the Board promulgated thereto.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-13-204 of Title 27A, unless there is created a duplication in numbering, reads as follows:

Any person who is permitted pursuant to the Solid Waste Management Act as a waste tire processing facility or a waste tire collection facility, shall in addition to any other requirements of the Department:

1. Report quarterly to the Department on the number of waste tires received at the site or facility, the name of the registered waste tire transporter delivering the tires, the number of waste tires processed or collected, and the number and manner of disposal of any waste tires;

2. Maintain contingency plans to protect public health and the environment;

3. Maintain financial assurance acceptable to the Department necessary for waste tire removal, fire suppression and other measures necessary to protect public health and the environment; and

4. Maintain a copy of the permit at the site.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-13-205 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. To be eligible for reimbursement from the Waste Tire Recycling Promotion Fund no person shall transport waste tires unless the person has a waste tire carrier registration issued by the Department.

B. An application for a new or renewed waste tire hauler registration shall be made on a form approved by the Department. The application shall include, but not be limited to, all of the following:

1. A vehicle description, vehicle identification number, vehicle license number, and the name of the registered vehicle owner for each vehicle used for transporting waste tires;

2. The business name under which the hauler operates, and the business owners' name, address, and telephone number;

3. Other business names under which the hauler operates; and

4. Any additional information required by the Department.

C. Upon approval of an application submitted pursuant to subsection B of this section, the Department shall issue a waste tire transporter registration to be carried in the vehicle and a waste tire transporter decal to be permanently affixed on the driver's door of the vehicle.

D. The initial waste tire transporter registration issued pursuant to the Oklahoma Waste Tire Management Act shall be valid from the date of issuance to January 1 of the subsequent calendar year. Subsequent renewals shall be valid for one (1) calendar year. The registration shall be renewed prior to its expiration.

E. As a condition of holding a registration to transport waste tires, each registered waste tire transporter shall:

1. Report to the Department in such manner and with such frequency as the Department shall require, the number of waste tires transported and the manner of disposition;

2. Maintain financial assurance in accordance with rules promulgated by the Board; and

3. Submit such other data as is determined by the Board to be reasonably necessary to protect public health and the environment.

F. This section shall not apply to:

1. A municipal solid waste collector holding a valid solid waste collection permit whose primary business is the collection of municipal solid waste;

2. A private individual transporting the individual's own waste tires to a waste tire processor or waste tire disposal facility or for proper disposal; or

3. A company transporting the company's own waste tires to a waste tire processing facility or for proper disposal.

G. A person registering as a waste tire transporter shall pay an annual registration fee of Twenty-five Dollars (\$25.00).

H. In addition to any other requirements of the Department, a registered waste tire transporter shall:

1. Retain a copy of a manifest described pursuant to Section 4 of this act; and

2. Make a copy of the manifest described under this section available to the Department upon request.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-13-206 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. The Department may suspend or revoke a waste tire transporter registration in accordance with the procedures in Part 5 of Article III of the Code if the holder of the registration has committed any of the following acts:

1. Committed any violations of, or failed to comply with any requirements of, this article;

2. Aided, abetted, or permitted any violation of this article;

3. Aided, abetted, or permitted a failure to comply with this article, if the failure of compliance shows a repeating or recurring occurrence or may pose a threat to public health or safety or the environment; or

4. Committed any misrepresentation or omission of a significant fact or other required information in the application for a waste tire transporter registration.

B. It shall be unlawful for any person to advertise or represent himself as being in the business of a waste tire transporter without being registered as a waste tire transporter by the Department.

Part 3. Waste Tire Recycling Promotion Fund Program.

SECTION 9. AMENDATORY 68 O.S. 1991, Section 53003, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 42, Chapter 324, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-403), is amended to read as follows:

Section 2-11-403. A. At the time any new tire ~~for use on automobiles or on light trucks with a laden weight of ten thousand (10,000) pounds or less~~ is sold by a wholesale dealer or a retail dealer to a consumer not for resale, there shall be assessed a waste tire recycling fee of One Dollar (\$1.00) per tire ~~unless the purchaser in such sale is a political subdivision or any agency, public trust, or instrumentality thereof.~~

B. 1. The wholesaler or retailer shall remit such fee to the Oklahoma Tax Commission in the same manner as provided by Section 1365 of ~~this title~~ Title 68 of the Oklahoma Statutes. At the time of filing any report as required by the Oklahoma Tax Commission, the wholesaler or retail dealer shall remit therewith to the Tax Commission, except as otherwise provided by this section, ninety-

seven and three-quarters percent (97.75%) of the fee due pursuant to this section.

2. Failure to remit such fee at the time of filing the returns shall cause said fee to become delinquent. If said fee becomes delinquent the wholesaler or retail dealer forfeits his claim to the discount authorized by this section and shall remit to the Tax Commission one hundred percent (100%) of the amount of the fee due plus any penalty due.

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

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

E. All penalties or interest imposed by this act shall be recoverable by the Tax Commission as a part of the fee imposed and all penalties and interest will be apportioned as provided for the apportionment of the fee on which such penalties or interest are collected.

F. The provisions of this section shall expire on December 31, 1999.

SECTION 10. AMENDATORY 68 O.S. 1991, Section 53004, as amended by Section 194, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-404), is amended to read as follows:

Section 2-11-404. A. There is hereby created within the Oklahoma Tax Commission the "Waste Tire Recycling ~~Indemnity~~ Promotion Fund". The ~~Indemnity~~ Promotion Fund shall be administered

by the Oklahoma Tax Commission pursuant to the provisions of Section ~~195~~ 11 of this act.

B. The ~~Indemnity~~ Promotion Fund shall consist of:

1. All monies received by the Commission as proceeds from the assessment imposed pursuant to Section ~~193~~ 9 of this act;

2. Interest attributable to investment of money in the ~~Indemnity~~ Promotion Fund; and

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

C. The monies deposited in the ~~Indemnity~~ Promotion Fund shall at no time become part of the general budget of the Commission or any other state agency. Except as provided for in Section ~~195~~ 11 of this act, no monies from the ~~Indemnity~~ Promotion Fund shall be transferred for any purpose to any other state agency or any account of the Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 36, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-11-405), is amended to read as follows:

Section 2-11-405. A. Of the monies accruing annually to the Waste Tire Recycling ~~Indemnity~~ Promotion Fund, ~~four~~ two percent (~~4%~~ 2%) thereof shall be available to the Oklahoma Tax Commission and four percent (4%) thereof shall be available to the Department of Environmental Quality for the purpose of administering the requirements of the Oklahoma Waste Tire ~~Recycling~~ Management Act. In addition, an amount not to exceed Fifty Thousand Dollars (\$50,000.00) per required audit shall be available to the State Auditor and Inspector for the purpose of conducting audits of the

Oklahoma Waste Tire Recycling Program pursuant to Section ~~38~~ 18 of this act.

B. The remaining monies in the Waste Tire Recycling ~~Indemnity Promotion~~ Fund shall be allocated pursuant to the provisions of the Waste Tire ~~Recycling~~ Management Act to ~~waste tire facilities~~ eligible applicants which, through the filing of appropriate applications, reports, and other documentation that may be required by the Department of Environmental Quality, demonstrate that such facilities have ~~successfully processed discarded vehicle tires~~ pursuant to the provisions of the Oklahoma Waste Tire ~~Recycling~~ Management Act and rules promulgated thereto.

SECTION 12. AMENDATORY 68 O.S. 1991, Section 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 37, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-11-406), is amended to read as follows:

Section 2-11-406. A. 1. Waste tire processing facilities meeting the requirements of the Waste Tire ~~Recycling~~ Management Act shall be eligible for compensation from the Waste Tire Recycling ~~Indemnity Promotion~~ Fund, for processing waste tires ~~discarded~~ in the State of Oklahoma to the extent that funds are therein contained, at a rate not to exceed fifty cents (\$0.50) for each waste tire processed in any calendar year by the facility as demonstrated through the application and submission of documentation to the Department of Environmental Quality. Such amount shall not be payable unless and until such tires have been processed and sold to recycling or reuse facilities.

2. In addition to other requirements of the Waste Tire ~~Recycling~~ Management Act, in order to qualify for such compensation, the applicant shall demonstrate that over the life of the facility prior to each request for compensation, at least ten percent (10%) of the tires processed by the waste tire processing facility were collected from tire dumps as identified through placement on a

priority enforcement list by the Department of Environmental Quality.

B. 1. ~~In addition to the compensation authorized by subsection A of this section, any waste tire facility~~ Any registered waste tire transporter that is in good standing with the Department of Environmental Quality shall be eligible for compensation at the rate of thirty-five cents (\$0.35) per ~~processed~~ tire for the collection, transportation of ~~discarded vehicle~~ tires obtained from dealers, solid waste landfill sites, dumps certified by the Department of Environmental Quality enforcement priority list, municipal and county designated collection sites and delivering such tires to the waste tire processing facility. ~~Beginning July 1, 1994, and for each month thereafter, the number of collected discarded tires on which initial compensation may be sought by any waste tire facility shall not exceed the number of tires for which each dealer, from whom the facility has collected tires, remitted waste tire recycling fees to the Oklahoma Tax Commission.~~

2. The collection and transportation of ~~discarded vehicle~~ waste tires by a registered waste tire transporter shall be on a regional or statewide basis and shall be provided ~~by the waste tire facility~~ at no additional cost to a participating dealer. ~~The Department of Environmental Quality shall not require a waste tire facility to collect less than one thousand discarded vehicle tires at any one location.~~

3. ~~To be eligible for compensation pursuant to this subsection, the waste tire facility shall:~~

- a. ~~demonstrate to the satisfaction of the Department of Environmental Quality, that such facility is regularly engaged in the collection, transportation and delivery of discarded vehicle tires, on a statewide basis, and from each county of the state, and~~

~~b. provide documentation, signed by a participating dealer at the time of collection, which certifies the total amount of waste tire recycling fees remitted by the dealer since the date his waste tires were last collected.~~

C. Compensation pursuant to this section shall be payable only for the equivalent number of tires collected ~~and~~ or processed in accordance with the purposes of the Waste Tire ~~Recycling~~ Management Act and as authorized by the Department pursuant thereto.

SECTION 13. AMENDATORY 68 O.S. 1991, Section 53007, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 39, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-11-407), is amended to read as follows:

Section 2-11-407. A. 1. A waste tire processing facility or registered waste tire transporter desiring to be compensated from the Waste Tire Recycling ~~Indemnity~~ Promotion Fund shall first make application to the Department of Environmental Quality on forms prescribed by the Department containing documentation as required by the Waste Tire ~~Recycling~~ Management Act and such other information as the Department determines is needed to comply with the Waste Tire ~~Recycling~~ Management Act.

2. On at least a monthly basis, the Department of Environmental Quality shall evaluate applications and certify them to the Oklahoma Tax Commission.

B. Applicants for compensation pursuant to the Oklahoma Waste Tire Management Act shall report tire processing activity in terms of weight. The Department of Environmental Quality shall certify the numbers of tires processed based on eighteen and seven-tenths (18.7) pounds per tire. ~~The waste tire facility shall provide sufficient information to verify that the facility has processed vehicle tires into particles not larger than four (4) square inches~~

~~and otherwise in accordance with the purposes of the Waste Tire Recycling Act.~~

~~C. Applicants for compensation for the collection, transportation and delivery of discarded vehicle tires shall submit a plan designating statewide collection routes. At the time application for initial and subsequent compensation is made, the waste tire facility shall submit dealer certification when applicable, affidavits specifying the name of the entity from whom collection of the tires was made, and the number of discarded vehicle tires collected at each collection point.~~

SECTION 14. AMENDATORY 68 O.S. 1991, Section 53008, as amended by Section 198, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-408), is amended to read as follows:

Section 2-11-408. A. Upon receiving applications properly certified by the Department of Environmental Quality and upon determining that there are sufficient monies in the Waste Tire Recycling ~~Indemnity~~ Promotion Fund, the Oklahoma Tax Commission shall compensate ~~waste tire facilities~~ eligible applicants as applicable for:

1. Processing the number of tires documented in the application at the rate of not more than one-half dollar (\$0.50) per tire. This amount shall not be payable, however, unless and until such tires have been actually processed and sold to a waste tire processing facility; and or

2. The ~~collection,~~ transportation and delivery of ~~discarded vehicle~~ waste tires documented in the application at the rate of not more than thirty-five cents (\$0.35) per tire. ~~This amount shall not be payable, however, unless and until such tires have been actually processed into particles not larger than four (4) square inches.~~

B. If the ~~Indemnity~~ Fund contains less ~~than this amount of~~ funds in any quarter, ~~then~~ than claims, the Oklahoma Tax Commission

shall apportion the payments among all the qualifying applicants according to the percentage of tires ~~collected~~, transported, delivered or processed.

C. The Department of Environmental Quality shall evaluate each waste tire processing facility every three (3) years. Upon completion of the evaluation, the Department shall recertify for compensation only those waste tire processing facilities which have acted to provide for recycling, reuse or energy recovery from ~~discarded~~ waste vehicle tires.

SECTION 15. AMENDATORY 68 O.S. 1991, Section 53009, as amended by Section 199, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-409), is amended to read as follows:

Section 2-11-409. A. The Oklahoma Tax Commission shall promulgate rules to carry out the provisions of the Waste Tire ~~Recycling~~ Management Act which pertain to the remittance of fees and to the allocation of monies accruing to the Waste Tire Recycling ~~Indemnity~~ Promotion Fund.

B. The Board of Environmental Quality shall promulgate rules to carry out the provisions of the Waste Tire ~~Recycling~~ Management Act which pertain to the ~~permitting and certifying~~ licensing of waste tire recycling facilities and waste tire processing facilities and the registration of waste tire transporters.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-13-308 of Title 27A, unless there is created a duplication in numbering, reads as follows:

A. By January 1, 1996, each county may provide directly by contract at least one site to receive and store waste tires, if adequate sites are not otherwise available in the county for the use of the residents of the county. The operator of any such sites provided by a county shall sell and/or cause the transfer of the

waste tires stored at these sites to a waste tire processing facility as often as is practicable.

B. Counties collecting and transporting such waste tires to a waste tire processing facility are eligible to receive the amount specified by Section 14 of this act.

C. The county so collecting and transporting shall comply with rules of the Board.

SECTION 17. AMENDATORY 68 O.S. 1991, Section 53010, as amended by Section 200, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-410), is amended to read as follows:

Section 2-11-410. A. ~~The Department of Environmental Quality shall file a report with the Legislature and Governor detailing the administration of the Waste Tire Recycling Act and its effectiveness in bringing about the clean-up of existing waste tire dumps and in preventing the development of new dumps. The first report shall be filed by no later than December 31, 1992. Subsequent reports shall be filed every three (3) years thereafter. A final report shall be filed no later than March 31, 2000, unless the provisions of Section 193 of this act are extended by law beyond December 31, 1999~~ submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate containing the total number of applicants requesting disbursement from the Waste Tire Recycling Promotion Fund during the preceding year; the total amount disbursed for such payments; the total number of applicants denied disbursement from the Fund during the preceding year, and the total amount denied for such disbursement; the average time frame for providing disbursements to applicants; a historical comparison of disbursements in regard to applicants requesting disbursement, applicants denied disbursement, and average time frame for providing disbursement; a detailed summary of administrative expenditures related to the waste tire program; other information which the

Department believes is pertinent regarding the waste tire program; and any other information requested by the Speaker of the House of Representatives or the President Pro Tempore of the Senate regarding the program.

B. The Oklahoma Tax Commission shall submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the amount of assessments collected for deposit to the Waste Tire Recycling Promotion Fund.

SECTION 18. AMENDATORY Section 38, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-11-411), is amended to read as follows:

Section 2-11-411. A. By August 1, 1994, and every even year thereafter, the State Auditor and Inspector shall conduct or shall contract with an auditor or auditing company to conduct an independent audit of the books, records, files and other such documents of the Department of Environmental Quality pertaining to and which relate to the administration of the Waste Tire Recycling Indemnity Fund. The audit shall include but shall not be limited to a review of agency and claimant compliance with state statutes regarding the Fund, internal control procedures, adequacy of claim process expenditures from and debits of the Fund regarding reimbursements, administration, personnel, operating and other expenses charged by the Department; the duties performed in detail by agency personnel and Fund personnel for which payment is made from the Fund, and recommendations for improving claim processing, equipment needed for claim processing, internal control or structure for administering the Fund; and such other areas deemed necessary by the State Auditor and Inspector.

B. The cost of the audit shall be borne by the Waste Tire Recycling ~~Indemnity~~ Promotion Fund, pursuant to the limits and provisions of Section ~~36~~ 11 of this act.

C. Copies of the audit shall be submitted to the State Auditor and Inspector, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Chairmen of the Appropriations Committee of both the Oklahoma House of Representatives and the State Senate.

SECTION 19. RECODIFICATION 68 O.S. 1991, Sections 53001, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-401), as last amended by Section 1 of this act, and 53002, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-402), as last amended by Section 2 of this act, shall be codified as Sections 2-13-101 and 2-13-102 of Title 27A of the Oklahoma Statutes. 63 O.S. 1991, Section 1-2325, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-10-601), as last amended by Section 3 of this act, shall be recodified as Section 2-13-201 of Title 27A of the Oklahoma Statutes. 68 O.S. 1991, Sections 53003, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-403), as last amended by Section 9 of this act, 53004, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-404), as last amended by Section 10 of this act, 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-405), as last amended by Section 11 of this act, 53006, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-406), as last amended by Section 12 of this act, 53007, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-407), as last amended by Section 13 of this act, 53008, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-408), as last amended by Section 14 of this act, and 53009, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-409), as last amended by Section 15 of this act, shall be recodified consecutively as Sections 2-13-301, 2-13-302, 2-

13-303, 2-13-304, 2-13-305, 2-13-306 and 2-13-307 of Title 27A of the Oklahoma Statutes. 68 O.S. 1991, Section 53010, as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1994, Section 2-11-410), as last amended by Section 17 of this act, and Section 38, Chapter 353, O.S.L. 1994 (27A O.S. Supp. 1994, Section 2-11-411), as amended by Section 18 of this act, shall be recodified consecutively as Sections 2-13-309 and 2-13-310 of Title 27A of the Oklahoma Statutes.

SECTION 20. This act shall become effective November 1, 1995.

45-1-5740

KSM