STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 237 By: Easley of the Senate

and

Rice of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; amending 82 O.S. 1991, Section 926.3, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 217, O.S.L. 1997 (27A O.S. Supp. 1998, Section 2-6-103), which relates to powers and duties of the Department of Environmental Quality; authorizing the Department to issue certain swimming and fishing advisories; amending 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 12, Chapter 314, O.S.L. 1998 (27A O.S. Supp. 1998, Section 2-11-405), which relates to waste tire recycling indemnity fund; authorizing the Department to utilize certain monies for the state portion of a waste response or remediation; amending Section 3, Chapter 170, O.S.L. 1996, as amended by Section 4, Chapter 114, O.S.L. 1998 (27A O.S. Supp. 1998, Section 2-11-407.1), which relates to erosion control; authorizing the Department to make partial compensation during the course of certain projects; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 82 O.S. 1991, Section 926.3, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 3, Chapter 217, O.S.L. 1997 (27A O.S. Supp. 1998, Section 2-6-103), is amended to read as follows:

Section 2-6-103. A. The Department of Environmental Quality shall have and is hereby authorized to exercise the power and duty to:

1. Develop comprehensive programs for the prevention, control and abatement of new or existing pollution of the waters of this state;

2. Encourage, participate in, or conduct studies, investigations, research and demonstrations relating to water pollution and causes, prevention, control and abatement thereof as it may deem advisable and necessary in the public interest for the discharge of its duties under this act;

3. Collect and disseminate information relating to water pollution and the prevention, control and abatement thereof;

4. Require the submission of and review plans, specifications and other data relative to disposal or treatment systems or any part thereof in connection with the issuance of such permits as are required by this article;

5. Enforce the provisions of this article, rules promulgated thereunder, and permits, licenses, and certifications issued pursuant thereto and Oklahoma Water Quality Standards;

6. Establish, implement, amend and enforce the Water Quality Management Plan, the continuing planning process documents, and total maximum daily loads;

7. Require the submission of reports or laboratory analyses performed by certified laboratories or operators for purposes of compliance monitoring and testing or other purposes for which laboratory reports or analyses are required pursuant to this article; ~~and~~

8. Coordinate the preparation of the continuing planning process documents and total maximum daily loads with other environmental agencies and natural resource agencies~~.~~; and

9. Issue swimming and fishing advisories related to human and animal health hazards for waters of the state, based on available data.

B. 1. The Environmental Quality Board shall have the authority to promulgate such rules as may be necessary to implement the policies and duties set forth in this article including, but not limited to, rules pertaining to services, permits, licenses and certifications, including certifications under Section 401 of the Clean Water Act, and, pursuant to Section 2-3-402 of this title, fee schedules for such services, permits, licenses and certifications.

2. The Board may adopt by reference standards of quality of the waters of the state and classifications of such waters as are lawfully established by the Oklahoma Water Resources Board and the United States Environmental Protection Agency as Oklahoma's Water Quality Standards and promulgate other rules to protect, maintain and improve the best uses of waters in this state in the interest of the public under such conditions as may be necessary or appropriate for the prevention, control and abatement of pollution.

3. The Board shall promulgate rules which describe procedures for amending and updating the Water Quality Management Plan or which are otherwise consistent with the Continuing Planning Process and its components. Such rules shall:

a. be in substantial conformance with any applicable federal requirements and may incorporate appropriate U.S. Environmental Protection Agency regulations by reference, and

b. require public notice to be given of any major amendment and of any update of the Water Quality Management Plan and allow not less than a forty-five-day opportunity for public comment thereon. Such rules shall also authorize the Department, if it determines public interest in the proposed amendment or update is significant, to give notice of and conduct a public meeting on the proposals in accordance with federal requirements. The rules shall

provide that the notice, comment period, and public meeting if any, related to an amendment or update proposed in conjunction with the issuance, modification or renewal of a discharge permit or permits, may be combined with the notice, comment period, and public meeting if any, held on the proposed permit action or actions.

C. The Executive Director may:

1. Issue, modify, or revoke orders:

a. prohibiting or abating pollution of the waters of the state,

b. requiring the construction of new disposal or treatment systems or any parts thereof or the modification, extension or alteration of existing disposal or treatment systems or any part thereof, or the adoption of other remedial measures to prevent, control or abate pollution, and

c. requiring other actions such as the Executive Director may deem necessary to enforce the provisions of this article and rules promulgated thereunder;

2. Issue, continue in effect, revoke, amend, modify or deny, renew, or refuse to renew under such conditions as the Department may prescribe, permits, licenses and certifications, including certifications under Section 401 of the Clean Water Act, to prevent, control or abate pollution of waters of the state; and

3. Exercise all incidental powers which are necessary and proper to carry out the purposes of this article.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 53005, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 12, Chapter 314, O.S.L. 1998 (27A O.S. Supp. 1998, 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 Fund, four percent (4%) 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 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 2-11-411 of this title.

B. Of the ninety-two percent (92%) of the remaining monies in the Waste Tire Recycling Indemnity Fund, ten percent (10%) shall be allocated to businesses located in Oklahoma who manufacture new products or derive energy benefits from waste tires which have been processed according to the requirements of the Oklahoma Waste Tire Recycling Act. Such businesses shall be eligible for compensation in a total amount not to exceed one hundred percent (100%) of their capital investment in equipment necessary to utilize processed waste tires purchased on or after January 1, 1995, at a rate of Twenty Dollars ($20.00) per ton of processed waste tires consumed in the manufacturing or energy recovery process. Funds shall be awarded based on a proportionate share of the funds available and based on the relative amount of each capital investment. Such businesses may apply for compensation monthly to the Oklahoma Tax Commission, and shall supply any information required by the Commission to document compliance with the provisions of the Oklahoma Waste Tire Recycling Indemnity Act.

C. The balance of the monies remaining in the Waste Tire Recycling Indemnity Fund shall be allocated pursuant to the provisions of the Oklahoma Waste Tire Recycling Act to waste tire facilities or persons, corporations or other legal entities authorized by the provisions of the Oklahoma Waste Tire Recycling

Act to receive reimbursement which, through the filing of appropriate applications, reports, and other documentation that may be required by the Department of Environmental Quality pursuant to the Oklahoma Waste Tire Recycling Act, demonstrate that such facilities or legal entities have successfully processed discarded vehicle tires pursuant to the Oklahoma Waste Tire Recycling Act. Any remaining balance may be utilized by the Department to provide the state portion of a waste response or remediation project pursuant to Section 2-7-304 of this title.

SECTION 3. AMENDATORY Section 3, Chapter 170, O.S.L. 1996, as amended by Section 4, Chapter 114, O.S.L. 1998 (27A O.S. Supp. 1998, Section 2-11-407.1), is amended to read as follows:

Section 2-11-407.1 A. Any person, corporation or other legal entity who has obtained a permit or other authorization from the United States Army Corps of Engineers or a local Conservation District to provide services for erosion control, bank stabilization or other conservation projects shall be eligible for reimbursement from the Waste Tire Recycling Indemnity Fund if:

1. The legal entity collects or provides for the collection, processing and utilization of waste tires pursuant to the provisions of the Oklahoma Waste Tire Recycling Act in an erosion control, bank stabilization or other conservation project in accordance with a written plan approved by the United States Army Corps of Engineers or by a local Conservation District;

2. The tires are processed on the site of the erosion control, bank stabilization or other conservation project;

3. The project includes the planting of trees or other suitable vegetation in accordance with a planting plan developed in conjunction with the Division of Forestry of the State Department of Agriculture; and

4. The legal entity completes and maintains the proper information and records as required by the Oklahoma Tax Commission

and the Department of Environmental Quality pursuant to the Oklahoma Waste Tire Recycling Act and in all other manner complies with any storage, transportation and disposal requirements promulgated by the Department of Environmental Quality pursuant to the Oklahoma Environmental Quality Code.

B. 1. Any person, corporation or other legal entity meeting the requirements specified by this section shall be eligible for compensation from the Waste Tire Recycling Indemnity Fund, to the extent that funds are therein contained for processing of waste tires discarded in this state having a tire rim diameter of greater than seventeen and one-half (17 1/2) inches at a rate not to exceed Two Dollars and twenty-five cents ($2.25) per tire and for tires having a rim diameter less than or equal to seventeen and one-half (17 1/2) inches at a rate not to exceed forty-five cents ($0.45) per tire processed in any calendar year by the legal entity as demonstrated through the proper application and submission of proper documentation to the Oklahoma Tax Commission.

2. In addition to other requirements of the Oklahoma Waste Tire Recycling Act, in order to qualify for such compensation, the applicant shall demonstrate that all of the tires processed by the legal entity for which compensation is requested were collected from tire dumps or landfills as identified through placement on the priority cleanup list or community-wide cleanup events approved by the Department.

C. 1. Compensation pursuant to this section shall be payable only for the tires collected and processed in accordance with the purposes of the Oklahoma Waste Tire Recycling Act and as authorized by the Department pursuant thereto.

2. The Department may determine the amount of and authorize partial compensation, during the course of the project, as tires are processed in accordance with the written plan.

SECTION 4. Section 2 of this act shall become effective January 1, 2000.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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