

3 ENGROSSED

4 House Bill No. 1606

5 As Amended

6 ENGROSSED HOUSE BILL NO. 1606 - By: MILLER (Doug), COOKSEY, HIETT  
7 and SMALIGO of the House and FISHER, BROGDON, EASLEY, LAWLER and  
8 PADDACK of the Senate.

9 [ environment and natural resources - amending ten Sections  
10 in Title 27A - Waste Tire Recycling Act - compensation -  
11 repealing 27A O.S., Section 2-11-414 - effective date ]

12 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-11-402,  
13 as amended by Section 1, Chapter 185, O.S.L. 2004 (27A O.S. Supp.  
14 2004, Section 2-11-402), is amended to read as follows:

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

17 1. "Department" means the Department of Environmental Quality;

18 2. "End user" means any person authorized by the Department to  
19 process waste tires in accordance with the provisions of the  
20 Oklahoma Waste Tire Recycling Act;

21 3. "Priority cleanup list" means a list of unpermitted waste  
22 dumps which:

23 a. did not exist when the owner took possession of the  
24 property where the tires are located, and were created

1 without the consent of or benefit to the owner of the  
2 property, and

3 b. such other tire dumps designated by the Department  
4 pursuant to Section 2-11-406 of this title;

5 ~~3.~~ 4. "Tire" means any solid or air-filled covering for motor  
6 vehicle wheels;

7 ~~4.~~ 5. "Tire dealer" means any person engaged in the business of  
8 selling new and used tires to final consumers, not for resale;

9 ~~5. "Waste tire facility" means any place which is permitted as~~  
10 ~~a solid waste disposal site, in accordance with the Oklahoma Solid~~  
11 ~~Waste Management Act, at which waste tires are collected or~~  
12 ~~deposited for processing by shredding or other technology, except~~  
13 ~~baling, which alters the form of at least five percent (5%) of the~~  
14 ~~tires collected by weight, for the purpose of facilitating the~~  
15 ~~future extraction of useful materials for recycling, reuse, energy~~  
16 ~~or fuel recovery; and~~

17 ~~6. "Waste tire processing" means the preparation of waste tires~~  
18 ~~to facilitate use for recycling, reuse, energy or fuel recovery,~~  
19 ~~including the cleaning, sorting and delivery of whole tires, in a~~  
20 ~~ready-to-use condition, to businesses that utilize processed tires~~  
21 ~~for energy or fuel recovery;~~

22 a. the use of whole waste tires for energy or fuel  
23 recovery in a manner approved by the Department,

- 1           b. the use of whole waste tires in an erosion control,  
2           river bank stabilization, or other conservation  
3           project in accordance with the conditions of a permit  
4           or other authorization from the United States Army  
5           Corps of Engineers or a local Conservation District,  
6           c. altering the form of waste tires by shredding,  
7           chipping, or other method approved by the Department,  
8           except baling, and marketing the tire-derived material  
9           for recycling, reuse, or energy or fuel recovery in a  
10           manner approved by the Department, or  
11           d. any other use of waste tires in accordance with the  
12           purposes of this act and as authorized by the  
13           Department.

14           SECTION 2.           AMENDATORY           27A O.S. 2001, Section 2-11-405,  
15 as last amended by Section 2, Chapter 185, O.S.L. 2004 (27A O.S.  
16 Supp. 2004, Section 2-11-405), is amended to read as follows:

17           Section 2-11-405. A. 1. Of the monies accruing annually to  
18 the Waste Tire Recycling Indemnity Fund, three and one-half percent  
19 (3.5%) thereof shall be available to the Oklahoma Tax Commission and  
20 three and one-half percent (3.5%) thereof shall be available to the  
21 Department of Environmental Quality for the purpose of administering  
22 the requirements of the Oklahoma Waste Tire Recycling Act.

23           2. In addition, an amount not to exceed:

1           a.     Fifty Thousand Dollars (\$50,000.00) per required audit  
2                   shall be available to the State Auditor and Inspector  
3                   for the purpose of conducting audits of the Oklahoma  
4                   Waste Tire Recycling Program pursuant to Section 2-11-  
5                   411 of this title, and  
6           b.     until July 1, 2006, one percent (1%) shall be  
7                   available to the State Auditor and Inspector for a  
8                   pilot program for random compliance audits of the  
9                   Oklahoma Waste Tire Recycling Program.

10           B.    Of the ninety-two percent (92%) of the ~~remaining monies in~~  
11 ~~the~~ Waste Tire Recycling Indemnity Fund, ~~ten percent (10%)~~ five  
12 percent (5%) shall be allocated for capital investment recapture to  
13 ~~businesses~~ end users located in Oklahoma who manufacture new  
14 products or derive energy benefits from waste tires ~~which have been~~  
15 processed according to the requirements of the Oklahoma Waste Tire  
16 Recycling Act.  Such ~~businesses~~ end users shall be eligible for  
17 compensation in a total amount not to exceed one hundred percent  
18 (100%) of their capital investment in equipment purchased on or  
19 after January 1, 1995, necessary to ~~utilize processed waste tires~~  
20 ~~purchased on or after January 1, 1995,~~ manufacture new products or  
21 derive energy benefits.  Compensation shall be at a rate of ~~Twenty~~  
22 ~~Dollars (\$20.00) per ton of processed waste tires~~ twenty cents  
23 (\$0.20) per tire consumed in the manufacturing or energy recovery

1 process. Funds shall be awarded based on a proportionate share of  
2 the funds available and based on the relative amount of ~~tons of~~  
3 ~~processed~~ waste tires consumed. Such ~~businesses~~ end users may apply  
4 for compensation monthly to the Tax Commission, and shall supply any  
5 information required by the Tax Commission to document compliance  
6 with the provisions of the Oklahoma Waste Tire Recycling Act.

7 ~~C.~~ The balance of the monies remaining in the Waste Tire  
8 Recycling Indemnity Fund shall be allocated pursuant to the  
9 provisions of the Oklahoma Waste Tire Recycling Act to ~~waste tire~~  
10 ~~facilities or persons, corporations or other legal entities~~ end  
11 users authorized by the provisions of the Oklahoma Waste Tire  
12 Recycling Act to receive reimbursement which, through the filing of  
13 appropriate applications, reports, and other documentation that may  
14 be required by the Department of Environmental Quality pursuant to  
15 the Oklahoma Waste Tire Recycling Act, demonstrate that such  
16 ~~facilities or legal entities~~ end users have successfully processed  
17 ~~discarded vehicle~~ waste tires pursuant to the Oklahoma Waste Tire  
18 Recycling Act.

19 ~~D. Businesses located in Oklahoma that use processed tires for~~  
20 ~~energy or fuel recovery shall be eligible for compensation from the~~  
21 ~~fund at a rate not to exceed Twenty nine Dollars (\$29.00) per ton of~~  
22 ~~processed tires to be used for energy or fuel recovery. The~~

1 ~~business shall demonstrate the utilization through the application~~  
2 ~~and submission of required documentation to the Tax Commission.~~

3 SECTION 3. AMENDATORY 27A O.S. 2001, Section 2-11-406,  
4 as amended by Section 3, Chapter 185, O.S.L. 2004 (27A O.S. Supp.  
5 2004, Section 2-11-406), is amended to read as follows:

6 Section 2-11-406. A. 1. ~~Waste tire facilities~~ End users  
7 meeting the requirements of the Oklahoma Waste Tire Recycling Act  
8 shall be eligible for compensation from the Waste Tire Recycling  
9 Indemnity Fund to the extent that funds are therein contained for  
10 processing waste tires collected from this state at ~~a rate not to~~  
11 ~~exceed Forty nine Dollars (\$49.00) per ton of processed tire~~  
12 ~~material~~ the following rates:

13 a. end users who process waste tires to produce crumb  
14 rubber or for energy or fuel recovery: One Dollar  
15 (\$1.00) per tire,

16 b. end users who process waste tires in an erosion  
17 control, river bank stabilization, or other  
18 conservation project: One Dollar (\$1.00) per tire,  
19 and

20 c. end users who process waste tires by altering the form  
21 of waste tires but do not produce crumb rubber: One  
22 Hundred Dollars (\$100.00) per ton of product marketed.

1           2. The ~~waste tire facility~~ end user shall demonstrate the  
2 processing or utilization through the application and submission of  
3 required documentation to the Oklahoma Tax Commission.

4           a. In addition to other requirements of the Oklahoma  
5 Waste Tire Recycling Act, in order to qualify for such  
6 compensation, ~~the applicant shall demonstrate that~~  
7 ~~over the life of the facility prior to each request~~  
8 ~~for compensation,~~ the end user must demonstrate that  
9 at least five percent (5%) ~~ten percent (10%)~~ of the  
10 tires processed by the waste tire facility each  
11 calendar year, unless otherwise authorized by the  
12 Department of Environmental Quality, were collected  
13 from tire dumps or landfills as identified through  
14 placement on the priority cleanup list by the  
15 Department ~~of Environmental Quality~~ or community-wide  
16 cleanup events approved by the Department.

17           b. In developing the priority cleanup list required by  
18 this section ~~and Section 2-11-407.1 of this title,~~ the  
19 Department shall prioritize those dumps where the  
20 landowner was a victim of illegal dumping. Any other  
21 tire dump may be placed on the priority cleanup list  
22 in cases where the administrative enforcement process  
23 has been exhausted.

1           c.    For those illegal tire dumps placed on the list where  
2                    administrative enforcement has been exhausted, the  
3                    Department may provide for the cleanup of such dumps  
4                    pursuant to Section 2-11-413 of this title.

5           d.    From the effective date of this act for a period of  
6                    one (1) year, the requirement to collect waste tires  
7                    from tire dumps or landfills identified by the  
8                    Department according to the provisions of subparagraph  
9                    a of this paragraph shall be suspended unless an  
10                  applicant is requested to make such a collection by  
11                  the Department.

12           B.  1.  ~~In addition to the compensation authorized by subsection~~  
13 ~~A of this section, any waste tire facility that is in good standing~~  
14 ~~with the Department shall be eligible for compensation at the rate~~  
15 ~~of Forty-eight Dollars (\$48.00) per ton of processed tire material~~  
16 ~~for the collection and transportation of waste tires obtained from~~  
17 ~~dealers, automotive dismantlers, parts recyclers, solid waste~~  
18 ~~landfill sites, and dumps certified by the Department's priority~~  
19 ~~cleanup list, and delivering such tires to the waste tire facility.~~

20           2.  a.  The collection and transportation of waste tires shall  
21                    be on a statewide basis and shall be provided by the  
22                    ~~waste tire facility~~ end user at no additional cost.

1       ~~b.~~ 2. No tire dealer shall charge any customer any additional  
2 fee for the management, recycling, or disposal of any waste tire  
3 upon which the waste tire recycling fee has been remitted to the Tax  
4 Commission.

5       ~~e.~~ 3. For customers who choose not to leave a waste tire upon  
6 which the waste tire recycling fee has been remitted to the Tax  
7 Commission, the tire dealer shall issue a receipt which will entitle  
8 the customer to deliver the waste tire to the dealer at a later  
9 date.

10       ~~d.~~ 4. The Department shall not require ~~a waste tire facility~~ an  
11 end user to collect less than three hundred ~~discarded vehicle waste~~  
12 tires at any one location.

13       ~~3.~~ 5. To be eligible for compensation pursuant to this  
14 subsection, the ~~waste tire facility~~ end user shall:

- 15           a. demonstrate to the satisfaction of the Department that  
16           such ~~facility~~ end user is regularly engaged in the  
17           collection, transportation and delivery of waste tires  
18           ~~to a waste tire facility~~, on a statewide basis, and  
19           from each county of the state, and  
20           b. provide documentation to the Tax Commission, signed by  
21           a participating dealer at the time of collection,  
22           which certifies the total amount of waste tire  
23           recycling fees, itemized by month, remitted by the

1 dealer since the date the dealer's waste tires were  
2 last collected.

3 C. Compensation pursuant to this section shall be payable only  
4 for the tires collected and processed in accordance with the  
5 purposes of the Oklahoma Waste Tire Recycling Act and as authorized  
6 by the Department pursuant thereto. In lieu of proof of remitted  
7 tire recycling fees, the ~~waste tire facility~~ end user shall accept  
8 proof of purchase of a salvage vehicle registered in Oklahoma by an  
9 automotive dismantler and parts recycler, licensed pursuant to the  
10 Automotive Dismantlers and Parts Recycler Act, for the collection  
11 and transportation of up to five waste tires per salvage vehicle  
12 purchased on or after January 1, 1996. The Environmental Quality  
13 Board shall promulgate rules to ensure proper verification and proof  
14 of purchase information.

15 SECTION 4. AMENDATORY 27A O.S. 2001, Section 2-11-407,  
16 is amended to read as follows:

17 Section 2-11-407. A. 1. ~~A waste tire facility or person,~~  
18 ~~corporation or other legal entity~~ An end user authorized to receive  
19 reimbursement, pursuant to ~~Section 3~~ of this act, desiring to be  
20 compensated from the Waste Tire Recycling Indemnity Fund shall first  
21 make application to the Oklahoma Tax Commission on forms prescribed  
22 by the Tax Commission containing documentation as required by the  
23 Oklahoma Waste Tire Recycling Act and such other information as the

1 Tax Commission determines is needed to comply with the Oklahoma  
2 Waste Tire Recycling Act.

3 2. On at least a monthly basis, the Tax Commission shall  
4 evaluate and process applications.

5 B. 1. ~~Waste tire facilities~~ End users shall report and certify  
6 tire processing activity in terms of weight of marketed material or  
7 number of whole tires utilized. The ~~waste tire facility~~ end user  
8 shall by sworn affidavit provide sufficient information to verify  
9 that the ~~facility~~ end user has processed waste tires and ~~sold~~  
10 ~~processed tires~~ for actual recycling or reuse in accordance with the  
11 purposes of the Waste Tire Recycling Act. To be eligible for  
12 compensation, a ~~waste tire facility~~ an end user shall not have  
13 accumulated more whole tires, processed material or waste by-product  
14 than the amount for which ~~they have~~ it has provided financial  
15 assurance ~~under their solid waste permit or the amount accumulated~~  
16 ~~from three (3) years of operation, whichever is less~~ in an amount as  
17 approved by the Department of Environmental Quality.

18 2. ~~Legal entities~~ End users who accumulate no more than the  
19 number of waste tires, processed tire material and waste by-product  
20 that can be utilized or disposed by the end user within a period of  
21 thirty (30) days, as verified by affidavit, shall not be required to  
22 provide financial assurance. If an end user exceeds the thirty-day  
23 supply, it must provide financial assurance in an amount approved by

1 the Department. If an end user does not provide the appropriate  
2 financial assurance within thirty (30) days of notification by the  
3 Department, the Department shall notify the Oklahoma Tax Commission  
4 that the end user is not eligible for compensation until the  
5 approved financial assurance is provided to the Department.

6 3. End users authorized to receive reimbursement pursuant to  
7 ~~Section 3~~ of this act shall report and certify tire processing  
8 activity by number of whole tires processed or weight of processed  
9 material that has been marketed. Such ~~legal entities~~ end users  
10 shall by sworn affidavit provide sufficient information to verify  
11 that such ~~legal entity has~~ end users have processed the tires in  
12 accordance with ~~Section 3~~ the provisions of ~~this act~~ the Oklahoma  
13 Waste Tire Recycling Act.

14 C. Applicants for compensation shall submit dealer  
15 certification when applicable, affidavits specifying the name of the  
16 entity from whom collection of the tires was made, and the number of  
17 discarded tires collected at each collection point.

18 SECTION 5. AMENDATORY 27A O.S. 2001, Section 2-11-407.1,  
19 as last amended by Section 4, Chapter 185, O.S.L. 2004 (27A O.S.  
20 Supp. 2004, Section 2-11-407.1), is amended to read as follows:

21 Section 2-11-407.1 A. Any ~~person, corporation or other legal~~  
22 ~~entity~~ end user who has obtained a permit or other authorization  
23 from the United States Army Corps of Engineers or a local

1 Conservation District to provide services for erosion control, bank  
2 stabilization or other conservation projects shall be eligible for  
3 reimbursement from the Waste Tire Recycling Indemnity Fund if:

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

10 2. The tires are collected and transported to and processed on  
11 the site of the erosion control, bank stabilization or other  
12 conservation project;

13 3. The landowner agrees to plant trees or other suitable  
14 vegetation in accordance with a planting plan developed in  
15 conjunction with the Division of Forestry of the State Department of  
16 Agriculture; and

17 4. The ~~legal entity~~ end user completes and maintains the proper  
18 information and records as required by the Oklahoma Tax Commission  
19 and the Department of Environmental Quality pursuant to the Oklahoma  
20 Waste Tire Recycling Act and in all other manner complies with any  
21 storage, transportation and disposal requirements promulgated by the  
22 Department of Environmental Quality pursuant to the Oklahoma  
23 Environmental Quality Code.

1        B. 1. ~~Any person, corporation or other legal entity meeting~~  
2 ~~the requirements specified by this section shall be eligible for~~  
3 ~~compensation from the Waste Tire Recycling Indemnity Fund, to the~~  
4 ~~extent that funds are therein contained for processing of waste~~  
5 ~~tires discarded in this state having a tire rim diameter of greater~~  
6 ~~than seventeen and one-half (17 1/2) inches at a rate not to exceed~~  
7 ~~Two Dollars and eighty cents (\$2.80) per tire and for tires having a~~  
8 ~~rim diameter less than or equal to seventeen and one-half (17 1/2)~~  
9 ~~inches at a rate not to exceed eighty cents (\$0.80) per tire from~~  
10 ~~tire dumps or landfills as identified through placement on the~~  
11 ~~priority cleanup list or community wide cleanup events approved by~~  
12 ~~the Department and processed in any calendar year by the legal~~  
13 ~~entity as demonstrated through the proper application and submission~~  
14 ~~of proper documentation to the Tax Commission.~~

15        2. a. ~~In addition to other requirements of the Oklahoma~~  
16 ~~Waste Tire Recycling Act, in order to qualify for such~~  
17 ~~compensation, the applicant shall demonstrate that at~~  
18 ~~least ten percent (10%) of the tires processed by the~~  
19 ~~legal entity for which compensation is requested were~~  
20 ~~collected from tire dumps or landfills as identified~~  
21 ~~through placement on the priority cleanup list or~~  
22 ~~community wide cleanup events approved by the~~  
23 ~~Department.~~

1           ~~b. The collection and transportation of waste tires~~  
2           ~~having a rim diameter of greater than seventeen and~~  
3           ~~one half (17 1/2) inches shall be on a statewide basis~~  
4           ~~and shall be provided by the legal entity at no~~  
5           ~~additional cost.~~

6           ~~e. The Department shall not require a legal entity to~~  
7           ~~collect less than three hundred discarded tires at any~~  
8           ~~one location.~~

9           ~~d. Entities receiving funds pursuant to this section may~~  
10           ~~only collect tires with a rim diameter of less than~~  
11           ~~seventeen and one half (17 1/2) inches from tire dumps~~  
12           ~~or landfills as identified through placement on the~~  
13           ~~priority cleanup list or community wide cleanup events~~  
14           ~~approved by the Department.~~

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

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

22           ~~D. C.~~ Any person, corporation or other legal entity end user,  
23           deemed eligible for reimbursement under the provisions of this

1 section shall be liable for the conservation project for a period of  
2 five (5) years. If additional cleanup or remediation of a  
3 conservation project is required, due to failure or negligence on  
4 the part of the ~~original contractor~~ end user during the ensuing  
5 five-year period, the ~~original contractor~~ end user shall be  
6 responsible for cleanup costs and shall not be eligible for any  
7 additional compensation from the Waste Tire Recycling Indemnity Fund  
8 for costs related to that conservation project.

9 SECTION 6. AMENDATORY 27A O.S. 2001, Section 2-11-408,  
10 as amended by Section 3, Chapter 502, O.S.L. 2002 (27A O.S. Supp.  
11 2004, Section 2-11-408), is amended to read as follows:

12 Section 2-11-408. A. ~~Upon reviewing completed applications and~~  
13 ~~upon determining that there are sufficient monies in the Waste Tire~~  
14 ~~Recycling Indemnity Fund, the Oklahoma Tax Commission shall~~  
15 ~~compensate waste tire facilities and any person, corporation or~~  
16 ~~other legal entity authorized to receive reimbursement pursuant to~~  
17 ~~Sections 2-11-405, 2-11-406 and 2-11-407.1 of this title as~~  
18 ~~applicable for:~~

19 1. ~~Processing the number of tires documented in the application~~  
20 ~~at the rate of Forty-nine Dollars (\$49.00) per ton of tire material~~  
21 ~~processed by shredding or processed by cleaning, sorting and~~  
22 ~~delivery to businesses that utilize processed tires for energy or~~  
23 ~~fuel recovery;~~

1       ~~2. The collection and transportation of waste tires to a waste~~  
2 ~~tire facility documented in the application at the rate of Forty-~~  
3 ~~eight Dollars (\$48.00) per ton of processed tire material. This~~  
4 ~~amount shall not be payable, however, unless and until such tires~~  
5 ~~have been actually processed according to the facility's solid waste~~  
6 ~~permit;~~

7       ~~3. Collecting, processing and utilizing tires for erosion~~  
8 ~~control, bank stabilization or other conservation projects pursuant~~  
9 ~~to Section 2-11-407.1 of this title documented in the application at~~  
10 ~~the rate of Two Dollars and eighty cents (\$2.80) each for tires~~  
11 ~~having a tire rim diameter greater than seventeen and one half (17~~  
12 ~~1/2) inches or at a rate of eighty cents (\$0.80) each for tires~~  
13 ~~having a rim diameter equal to or less than seventeen and one half~~  
14 ~~(17 1/2) inches. This amount shall not be payable unless and until~~  
15 ~~such tires have been actually processed by utilization in the~~  
16 ~~erosion control, bank stabilization or other conservation project,~~  
17 ~~and the legal entity has otherwise complied with the provisions of~~  
18 ~~Section 2-11-407.1 of this title; and~~

19       ~~4. Utilization of processed tires for energy or fuel recovery~~  
20 ~~pursuant to Section 2-11-405 of this title documented in the~~  
21 ~~application at the rate of Twenty nine Dollars (\$29.00) per ton of~~  
22 ~~processed tires utilized for energy or fuel recovery.~~

1        ~~B.~~ If the Waste Tire Recycling Indemnity Fund contains  
2 insufficient funds in any month, then the Oklahoma Tax Commission  
3 shall apportion the payments among all the qualifying applicants  
4 according to the percentage of waste tires ~~collected, transported,~~  
5 ~~delivered or~~ processed.

6        ~~C.~~ B. The Department shall evaluate each ~~waste tire facility~~  
7 ~~and legal entity~~ end user authorized to receive reimbursement  
8 pursuant to ~~Section 2-11-407.1 of this title~~ the Oklahoma Waste Tire  
9 Recycling Act every three (3) years. Upon completion of the  
10 evaluation, the Department of Environmental Quality shall recertify  
11 for compensation only those ~~waste tire facilities or other legal~~  
12 ~~entities~~ end users which have provided the required documentation  
13 for ~~recycling, reuse or energy recovery from~~ processing waste tires  
14 in accordance with the provisions of the Oklahoma Waste Tire  
15 Recycling Act.

16        SECTION 7.        AMENDATORY        27A O.S. 2001, Section 2-11-409,  
17 is amended to read as follows:

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

1 B. The Board of Environmental Quality shall promulgate rules to  
2 carry out the provisions of the Oklahoma Waste Tire Recycling Act  
3 ~~which pertain to the permitting and certifying of waste tire~~  
4 ~~facilities.~~

5 SECTION 8. AMENDATORY 27A O.S. 2001, Section 2-11-412,  
6 is amended to read as follows:

7 Section 2-11-412. The Environmental Quality Board shall  
8 promulgate rules for the ~~permitting of waste tire facilities under~~  
9 ~~the Solid Waste Management Act~~ certification requirements of end  
10 users and for the administration of the ~~certification of waste tire~~  
11 ~~facilities for compensation under the~~ provisions of the Oklahoma  
12 Waste Tire Recycling Act. The rules shall be drawn to effectuate  
13 such provisions of the Oklahoma Waste Tire Recycling Act and the  
14 Oklahoma Solid Waste Management Act. Certification of an end user  
15 in accordance with such rules shall not relieve an end user from  
16 compliance with requirements of other programs within the Department  
17 of Environmental Quality.

18 SECTION 9. AMENDATORY 27A O.S. 2001, Section 2-11-413,  
19 is amended to read as follows:

20 Section 2-11-413. A. Except as otherwise provided by this  
21 section, it shall be unlawful for any person to:

22 1. Own or operate a site used for the storage, collection or  
23 disposal of more than fifty waste tires ~~except at a site or facility~~

1 ~~permitted~~ as approved by the Department of Environmental Quality ~~to~~  
2 ~~accept waste tires; however, the.~~ The provisions of this paragraph  
3 shall not apply to tire manufacturers, retailers, wholesalers and  
4 retreaders who store two thousand five hundred or fewer waste tires  
5 at their place of business or designated off-premises storage site;

6 2. ~~Dispose of waste tires at any site or facility other than a~~  
7 ~~site or facility for which a permit has been issued~~ location which  
8 has not been approved by the Department;

9 3. Knowingly transport or knowingly allow waste tires under ~~his~~  
10 their control or in ~~his~~ their possession to be transported to ~~an~~  
11 ~~unpermitted site or facility~~ any location which has not been  
12 approved by the Department; or

13 4. Remove more than ten used tires from a tire dealer's  
14 possession unless a manifest form, approved by the Department, which  
15 documents the removal and ~~approve~~ approved disposition or sale of  
16 the tires is provided by the dealer. Dealers, haulers, and ~~waste~~  
17 ~~tire facilities~~ end users shall keep copies of manifests available  
18 for inspection for five (5) years.

19 B. The provisions of paragraphs 1 through 4 of subsection A of  
20 this section shall not apply to:

21 1. The use of waste tires for agricultural purposes as  
22 recognized by the ~~State~~ Oklahoma Department of Agriculture, Food,  
23 and Forestry; or

1           2. The use of waste tires for erosion control, bank  
2 stabilization and other conservation projects if practiced in  
3 accordance with a written plan approved by the U.S. Army Corps of  
4 Engineers or the local Conservation District in accordance with  
5 designated best management practices established for such uses by  
6 the Oklahoma Conservation Commission.

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

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

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

1           3. The Department shall deposit any funds recovered through  
2 such action into the Waste Tire Recycling Indemnity Fund.

3           SECTION 10.           AMENDATORY           27A O.S. 2001, Section 2-11-415,  
4 as amended by Section 4, Chapter 502, O.S.L. 2002 (27A O.S. Supp.  
5 2004, Section 2-11-415), is amended to read as follows:

6           Section 2-11-415. A. The Oklahoma Tax Commission is authorized  
7 to award matching grants, pursuant to the provisions of this act, to  
8 public schools or institutions, state parks and recreation areas for  
9 the purpose of reimbursing such entities for purchasing and  
10 installing, according to the specifications outlined in the American  
11 Standards for Testing and Materials 1292 (ASTM), playground  
12 surfacing material made from crumb rubber or other waste tire  
13 material processed by a facility located in this state.

14           B. ~~Beginning July 1, 2001, when the total amount of funds~~  
15 ~~accruing to the Waste Tire Recycling Indemnity Fund, created~~  
16 ~~pursuant to the provisions of Section 2-11-404 of Title 27A of the~~  
17 ~~Oklahoma Statutes, reaches Three Million Dollars (\$3,000,000.00), an~~  
18 ~~amount not exceeding One Million Dollars (\$1,000,000.00) may be~~  
19 ~~expended from the fund within that state fiscal year for the~~  
20 ~~reimbursement through matching grants of playground resurfacing~~  
21 ~~material purchased pursuant to this section.~~

22           C. For the purposes of this act:

1        1. The term "public school or institution" means any public  
2 educational institution or other public institution located in this  
3 state and accredited for the purpose of educating or caring for  
4 children; and

5        2. The term "state park or recreation area" means any public  
6 recreation area owned and operated by the State of Oklahoma that  
7 contains a playground area for public use.

8        ~~D.~~ C. Any public school or institution, state park or  
9 recreation area shall be eligible to receive a matching grant of up  
10 to Twenty Thousand Dollars (\$20,000.00) as reimbursement or payment  
11 for purchasing and installing eligible playground surfacing  
12 material. A public school or institution may apply for any number  
13 of matching grants from the fund, but the total amount awarded shall  
14 not exceed Twenty Thousand Dollars (\$20,000.00) per school or  
15 institution. The application for reimbursement or payment may be  
16 submitted to the Tax Commission at the time a contract for sale and  
17 installation of the playground surfacing material has been executed.  
18 Reimbursement or payment shall be made only for playground surfacing  
19 material produced from waste tires discarded in this state. If  
20 approved, funds shall be obligated for the applicant and a notice of  
21 funds approval shall be sent by the Tax Commission to the applicant.  
22 Actual reimbursement or payment shall not be made by the Tax  
23 Commission until a notice of installation, signed by the contractor,

1 has been received from the applicant. Nothing herein shall prevent  
2 any eligible entity from assigning payment, which has been approved  
3 by the Tax Commission, to a contractor.

4 ~~E.~~ D. After the monthly obligations from the Waste Tire  
5 Recycling Indemnity Fund to the end users have been met, grants from  
6 the fund for public schools or institutions and state parks or  
7 recreation areas shall be awarded on a first-come, ~~first-serve~~  
8 first-served basis but shall not exceed One Million Dollars  
9 (\$1,000,000.00), including administrative costs as provided by  
10 subsection ~~F~~ E of this section, in any fiscal year. Any entity  
11 applying for a matching grant that is rejected due to limited funds  
12 shall remain eligible until funds become available.

13 ~~F.~~ E. The Tax Commission may retain one percent (1%) of the  
14 grant monies awarded from the fund for administrative costs to  
15 implement the provisions of this act.

16 ~~G.~~ F. The Tax Commission is directed to promulgate rules to  
17 implement the provisions of this act.

18 SECTION 11. REPEALER 27A O.S. 2001, Section 2-11-414, is  
19 hereby repealed.

20 SECTION 12. This act shall become effective November 1, 2005.

21 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated  
22 3-31-05 - DO PASS, As Amended and Coauthored.