

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL NO. 747

By: Bingman of the Senate

and

Armes and McNiel of the  
House

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9  
10 COMMITTEE SUBSTITUTE

11 An Act relating to environment and natural resources;  
12 amending 27A O.S. 2001, Section 2-11-403, as  
13 renumbered by Section 9, Chapter 230, O.S.L. 2005,  
14 and as last amended by Section 1, Chapter 295, O.S.L.  
15 2006 (27A O.S. Supp. 2006, Section 2-11-401.2), which  
16 relates to tire recycling fees; authorizing fees for  
17 certain tires sold and vehicles registered; amending  
18 27A O.S. 2001, Section 2-11-405, as last amended by  
19 Section 3, Chapter 230, O.S.L. 2005, and as  
20 renumbered by Section 11, Chapter 230, O.S.L. 2005  
21 (27A O.S. Supp. 2006, Section 2-11-401.4), which  
22 relates to allocation of Waste Tire Recycling  
23 Indemnity Fund; allowing for the transport and  
24 delivery of waste tires out-of-state without  
compensation; modifying certain amounts of fees for  
administration for agencies; providing for  
compensation for transferring processed waste tires;  
changing certain powers and duties of the Tax  
Commission to the Department of Environmental  
Quality; modifying amount of tires required to be  
collected for certain dumps or landfills; amending  
27A O.S. 2001, Section 2-11-409, as amended by  
Section 4, Chapter 230, O.S.L. 2005, and as  
renumbered by Section 13, Chapter 230, O.S.L. 2005  
(27A O.S. Supp. 2006, Section 2-11-401.6), which  
relates to rules; modifying duties for the Tax  
Commission and the Department of Environmental

1 Quality relating to certain inspections and  
2 enforcement actions; requiring the Commission to  
3 undertake certain proceedings; requiring the  
4 Department to report certain information to the  
5 Commission; authorizing the Department to make  
6 certain inspections and assess a penalty for  
7 nonpayment of certain fees; amending 27A O.S. 2001,  
8 Section 2-11-413, as amended by Section 5, Chapter  
9 230, O.S.L. 2005, and as renumbered by Section 14,  
10 Chapter 230, O.S.L. 2005 (27A O.S. Supp. 2006,  
11 Section 2-11-401.7), which relates to unlawful  
12 activities with waste tires; allowing the out-of-  
13 state transportation and delivery of waste tires;  
14 amending 27A O.S. 2001, Section 2-6-201, which  
15 relates to the Oklahoma Pollutant Discharge  
16 Elimination System Act; updating statutory reference;  
17 amending 27A O.S. 2001, Section 2-6-205, which  
18 relates to permits for stormwater discharges;  
19 specifying authority for determination of the need  
20 for stormwater permits; clarifying statutory  
21 language; providing an effective date; and declaring  
22 an emergency.

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

24 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-11-403,  
as renumbered by Section 9, Chapter 230, O.S.L. 2005, and as last  
amended by Section 1, Chapter 295, O.S.L. 2006 (27A O.S. Supp. 2006,  
Section 2-11-401.2), is amended to read as follows:

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

a. At the time any tire:

- (1) with a rim diameter of seventeen and one-half (17  
1/2) inches rim diameter or less is sold by a

1 tire dealer, there shall be assessed a waste tire  
2 recycling fee of One Dollar (\$1.00) per tire,  
3 (2) with a rim diameter greater than seventeen and  
4 one-half (17 1/2) inches but less than or equal  
5 to nineteen and one-half (19 1/2) inches is sold  
6 by a tire dealer, there shall be assessed a waste  
7 tire recycling fee of Two Dollars and fifty cents  
8 (\$2.50) per tire,  
9 (3) with a rim diameter greater than ~~seventeen and~~  
10 ~~one half (17 1/2)~~ nineteen and one-half (19 1/2)  
11 inches is sold by a tire dealer, there shall be  
12 assessed a waste tire recycling fee of Three  
13 Dollars and fifty cents (\$3.50) per tire, and  
14 ~~(3)~~  
15 (4) is sold by a tire dealer for use on a motorcycle,  
16 motor-driven cycle or motorized bicycle, there  
17 shall be assessed a waste tire recycling fee of  
18 One Dollar (\$1.00) per tire.

19 b. At any time a motor vehicle with a tire rim diameter  
20 of seventeen and one-half (17 1/2) inches or less is  
21 first registered in this state, there shall be  
22 assessed a waste tire recycling fee of One Dollar  
23 (\$1.00) per tire.  
24

1 c. At any time a motor vehicle with a tire rim diameter  
2 of greater than seventeen and one-half (17 1/2) inches  
3 but less than or equal to nineteen and one-half (19  
4 1/2) inches is first registered in this state, there  
5 shall be assessed a waste tire recycling fee of Two  
6 Dollars and fifty cents (\$2.50) per tire, except as  
7 otherwise provided by subparagraph e of this  
8 paragraph.

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

16 ~~d.~~ e. At any time a motorcycle, motor-driven cycle or  
17 motorized bicycle is first registered in this state,  
18 there shall be assessed a waste tire recycling fee of  
19 One Dollar (\$1.00) per tire.

20 2. Motor vehicles registered pursuant to Section 1120 of Title  
21 47 of the Oklahoma Statutes shall be exempt from the provisions of  
22 this subsection.  
23  
24

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

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

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

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

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

17 4. Failure to remit the fee at the time of filing the returns  
18 shall cause the fee to become delinquent. If the fee becomes  
19 delinquent the tire dealer or motor license agent forfeits any claim  
20 to the discount authorized by this section and shall remit to the  
21 Tax Commission one hundred percent (100%) of the amount of the fee  
22 due plus any penalty due.

23 C. If the fee imposed or levied by subsection A of this  
24 section, or any part of such amount, is not paid before the fee

1 becomes delinquent, there shall be collected on the total delinquent  
2 fee interest at the rate of one and one-quarter percent (1 1/4%) per  
3 month from the date of the delinquency until paid.

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

8 E. All penalties or interest imposed by this section shall be  
9 recoverable by the Tax Commission as a part of the fee imposed and  
10 all penalties and interest shall be apportioned the same as the fee  
11 on which the penalties or interest are collected.

12 SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-11-405,  
13 as last amended by Section 3, Chapter 230, O.S.L. 2005, and as  
14 renumbered by Section 11, Chapter 230, O.S.L. 2005 (27A O.S. Supp.  
15 2006, Section 2-11-401.4), is amended to read as follows:

16 Section 2-11-401.4 A. Compensation to waste tire facilities  
17 and tire-derived fuel or TDF facilities pursuant to this section  
18 shall be limited to facilities located in Oklahoma. Compensation  
19 for waste tire activities pursuant to this section shall be limited  
20 to waste tires from Oklahoma. A waste tire facility or tire-derived  
21 fuel or TDF facility may transport and deliver waste tires collected  
22 from Oklahoma to an out-of-state waste tire facility or TDF facility  
23 but shall not be eligible for compensation from the Waste Tire  
24 Recycling Indemnity Fund for those waste tires. To be eligible,

1 applicants for compensation shall be in compliance with the Oklahoma  
2 Waste Tire Recycling Act.

3 B. The monies accruing annually to the Waste Tire Recycling  
4 Indemnity Fund shall be allocated first to the following:

5 1. ~~Four and one-half percent (4.5%)~~ Two and one-fourth percent  
6 (2.25%) to the Oklahoma Tax Commission and ~~three and one-half~~  
7 ~~percent (3.5%)~~ five and three-fourths percent (5.75%) to the  
8 Department of Environmental Quality for the purpose of administering  
9 the requirements of the Oklahoma Waste Tire Recycling Act;

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

14 3. Up to ten percent (10%) for capital investment reimbursement  
15 to waste tire facilities and TDF facilities for the purchase of  
16 equipment necessary to utilize waste tires. Only equipment  
17 purchased on or after January 1, 1995, shall be eligible. The  
18 facilities are eligible for compensation at a rate of Twenty Dollars  
19 (\$20.00) per ton of waste tires used. Total reimbursement shall not  
20 exceed one hundred percent (100%) of the capital investment in  
21 eligible equipment. The facilities may apply for compensation  
22 monthly to the ~~Commission~~ Department of Environmental Quality, and  
23 shall supply any information required by the ~~Commission~~ Department.

24

1 C. After the allocations under subsection B of this section are  
2 made, the balance of monies in the Fund shall be available for  
3 compensation pursuant to the provisions of the Oklahoma Waste Tire  
4 Recycling Act as follows:

5 1. Compensation to waste tire facilities for waste tire  
6 processing, at the rate of Fifty-four Dollars (\$54.00) per ton of  
7 processed tire material. For compensation the following conditions  
8 shall apply:

9 a. facilities that process waste tires by altering the  
10 form of the waste tires but do not produce crumb  
11 rubber shall not receive compensation until the  
12 facility documents the sale or transfer and movement  
13 of the processed tire material off-site to a third  
14 party,

15 b. facilities shall report and certify tire processing  
16 activity in terms of weight. The facility shall by  
17 sworn affidavit provide to the ~~Commission~~ Department  
18 sufficient information to verify that the facility has  
19 processed tires and sold or transferred processed  
20 tires for actual recycling or reuse in accordance with  
21 the purposes of the Oklahoma Waste Tire Recycling Act,  
22 and

23 c. to be eligible for compensation, a facility shall not  
24 have accumulated more processed material than the

1 amount for which the facility has provided financial  
2 assurance under its solid waste permit or the amount  
3 accumulated from three (3) years of operation,  
4 whichever is less;

5 2. a. Compensation to waste tire facilities or TDF  
6 facilities at the rate of Fifty-three Dollars (\$53.00)  
7 per ton of whole waste tires for the collection and  
8 transportation of waste tires from Oklahoma tire  
9 dealers, automotive dismantlers and parts recyclers,  
10 solid waste landfill sites, and dumps certified by the  
11 Department priority cleanup list, and delivering the  
12 tires to a waste tire facility or TDF facility. The  
13 collection and transportation of waste tires shall be  
14 provided by the waste tire facility or TDF facility at  
15 no additional cost to the tire dealer or automotive  
16 dismantler and parts recycler or to the Fund. The  
17 waste tire facility or TDF facility shall collect from  
18 any location at which there are at least three hundred  
19 waste tires.

20 b. Compensation under this paragraph shall not be payable  
21 until the waste tires have been actually processed  
22 according to the solid waste permit for the facility  
23 or actually used for energy or fuel recovery. A TDF  
24 facility that collects and transports whole waste

1           tires shall be eligible for compensation under this  
2 paragraph only for those whole waste tires consumed by  
3 that facility.

4           c. No tire dealer shall charge any customer any  
5 additional fee for the management, recycling, or  
6 disposal of any waste tire upon which the waste tire  
7 recycling fee has been remitted to the Tax Commission.  
8 For customers who choose not to leave a waste tire  
9 upon which the waste tire recycling fee has been  
10 remitted to the Tax Commission, the tire dealer shall  
11 issue a receipt which entitles the customer to deliver  
12 the waste tire to the dealer at a later date.

13           d. To be eligible for compensation pursuant to this  
14 paragraph, the waste tire facility or TDF facility  
15 shall:

16           (1) demonstrate to the satisfaction of the Department  
17 that the facility is regularly engaged in the  
18 collection, transportation and delivery of waste  
19 tires to a waste tire facility or to a TDF  
20 facility, on a statewide basis, and from each  
21 county of the state,

22           (2) provide documentation to the ~~Commission~~  
23 Department, signed by a dealer at the time of  
24 collection, which certifies by sworn affidavit

1 the total amount of waste tire recycling fees,  
2 itemized by month, remitted by the dealer since  
3 the date the waste tires of the dealer were last  
4 collected, and

5 (3) annually demonstrate that at least ~~five~~ two  
6 percent ~~(5%)~~ (2%) of the tires were collected  
7 from tire dumps or landfills on the Department  
8 priority cleanup list or community-wide cleanup  
9 events approved by the Department.

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

18 3. a. Compensation to a person, corporation or other legal  
19 entity who has obtained a permit or other  
20 authorization from the United States Army Corps of  
21 Engineers or a local Conservation District to provide  
22 services for erosion control projects. Compensation  
23 shall be at the rate of Two Dollars and eighty cents  
24 (\$2.80) per tire for waste tires having a tire rim

1 diameter of greater than seventeen and one-half (17  
2 1/2) inches, and eighty cents (\$0.80) per tire for  
3 tires having a rim diameter less than or equal to  
4 seventeen and one-half (17 1/2) inches.

5 b. Reimbursement under this paragraph shall be subject to  
6 the following:

- 7 (1) the applicant for reimbursement collects or  
8 provides for the collection and utilization of  
9 waste tires in an erosion control project in  
10 Oklahoma in accordance with a written plan  
11 approved by the United States Army Corps of  
12 Engineers or by a local Conservation District,
- 13 (2) the tires are collected and transported to the  
14 site of the erosion control project,
- 15 (3) the site landowner agrees to plant trees or other  
16 suitable vegetation in accordance with a planting  
17 plan developed in conjunction with the Division  
18 of Forestry of the ~~State~~ Oklahoma Department of  
19 Agriculture, Food, and Forestry,
- 20 (4) the applicant reports and certifies the number of  
21 tires utilized. The applicant shall by sworn  
22 affidavit provide to the ~~Commission~~ Department  
23 sufficient information to verify that the  
24 applicant has utilized the tires in accordance

1 with the purposes of the Oklahoma Waste Tire  
2 Recycling Act,

3 (5) the applicant annually demonstrates that at least  
4 ~~five~~ two percent ~~(5%)~~ (2%) of the tires utilized  
5 by the applicant for which compensation is  
6 requested were collected from tire dumps or  
7 landfills on the Department priority cleanup list  
8 or community-wide cleanup events approved by the  
9 Department,

10 (6) the applicant demonstrates to the satisfaction of  
11 the Department that the applicant is regularly  
12 engaged in the collection, transportation and  
13 delivery to erosion control projects of waste  
14 tires, on a statewide basis, and from each county  
15 of the state, at no additional cost to the tire  
16 dealer or automotive dismantler and parts  
17 recycler or to the Fund, and

18 (7) the applicant provides documentation to the  
19 ~~Commission~~ Department, signed by a dealer at the  
20 time of collection, which certifies by sworn  
21 affidavit the total amount of waste tire  
22 recycling fees, itemized by month, remitted by  
23 the dealer since the date the waste tires of the  
24 dealer were last collected.

1 c. In lieu of proof of remitted tire recycling fees, the  
2 applicant shall accept proof of purchase of a salvage  
3 vehicle registered in Oklahoma by an automotive  
4 dismantler and parts recycler, licensed pursuant to  
5 the Automotive Dismantlers and Parts Recycler Act, for  
6 the collection and transportation of up to five waste  
7 tires per salvage vehicle purchased on or after  
8 January 1, 1996.

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

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

1 be eligible for any additional compensation from the  
2 Fund for costs related to that erosion control  
3 project;

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

1           that the unit has utilized the tires in accordance  
2           with the purposes of the Oklahoma Waste Tire Recycling  
3           Act; and

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

10          D. 1. After the allocations under subsections B and C of this  
11 section are made, any remaining monies in the Fund shall be  
12 available for TDF facilities and waste tire facilities that produce  
13 crumb rubber for compensation at the rate of Twenty-nine Dollars  
14 (\$29.00) per ton of processed or whole waste tires used for energy  
15 or fuel recovery or the production of crumb rubber.

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

19          3. TDF facilities and waste tire facilities authorized to  
20 receive reimbursement under this subsection shall report and certify  
21 tire material used by weight.

22          4. The facilities shall by sworn affidavit provide to the  
23 ~~Commission~~ Department sufficient information to verify that the  
24

1 facility has used the tires in accordance with the purposes of the  
2 Oklahoma Waste Tire Recycling Act.

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

9 E. After the allocations under subsections B, C and D of this  
10 section are made, any remaining monies in the Fund shall be  
11 disbursed as additional compensation to waste tire facilities or TDF  
12 facilities for the collection and transportation of waste tires from  
13 Oklahoma tire dealers, automotive dismantlers and parts recyclers,  
14 solid waste landfill sites, and dumps certified by the Department  
15 priority cleanup list, and delivering the tires to a waste tire  
16 facility or a TDF facility. The ~~Commission~~ Department shall  
17 determine the apportion ~~the~~ of payments to be made under this  
18 subsection among the qualified applicants according to the  
19 percentage of waste tires collected and transported.

20 F. Waste tire facilities, TDF facilities, or persons,  
21 corporations or other legal entities authorized by the provisions of  
22 the Oklahoma Waste Tire Recycling Act to receive reimbursement shall  
23 demonstrate that the facilities or legal entities have successfully  
24 complied with the requirements of the Oklahoma Waste Tire Recycling

1 Act through the filing of appropriate applications, reports, and  
2 other documentation that may be required by the Tax Commission and  
3 the Department.

4 SECTION 3. AMENDATORY 27A O.S. 2001, Section 2-11-409,  
5 as amended by Section 4, Chapter 230, O.S.L. 2005, and as renumbered  
6 by Section 13, Chapter 230, O.S.L. 2005 (27A O.S. Supp. 2006,  
7 Section 2-11-401.6), is amended to read as follows:

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

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

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

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

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

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

7 ~~4.~~ 3. The ~~Commission~~ Department shall make periodic inspections  
8 of ~~tire dealers and motor license agents to ensure compliance with~~  
9 ~~the provisions of Section 2-11-401.2 of this title, and shall make~~  
10 ~~periodic inspections of applicants for compensation to ensure~~  
11 compliance with the provisions of Section 2-11-401.4 of this title.  
12 The ~~Commission~~ Department shall submit a summary of the results of  
13 those inspections in an annual report to the office of the State  
14 Auditor and Inspector.

15 ~~B.—1.~~ 4. The Environmental Quality Board shall promulgate  
16 rules for the permitting of waste tire facilities under the Oklahoma  
17 Solid Waste Management Act and for the certification of any entity  
18 to receive compensation under the provisions of the Oklahoma Waste  
19 Tire Recycling Act.

20 ~~2.~~ 5. The Department ~~of Environmental Quality~~ shall file a  
21 report with the Legislature and the Governor detailing the  
22 administration of the Oklahoma Waste Tire Recycling Act and its  
23 effectiveness in bringing about the cleanup of existing waste tire  
24 dumps and in preventing the development of new dumps. The first

1 report shall be filed by no later than December 31, 1992.

2 Subsequent reports shall be filed every three (3) years thereafter.

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

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

1 C. 1. By August 1, 1994, and every even year thereafter, the  
2 State Auditor and Inspector shall conduct or shall contract with an  
3 auditor or auditing company to conduct an independent audit of the  
4 books, records, files and other such documents of the Commission and  
5 the Department pertaining to the administration of the Fund. The  
6 audit shall include, but shall not be limited to, a review of agency  
7 and claimant compliance with state statutes regarding the Fund,  
8 internal control procedures, adequacy of claim process expenditures  
9 from and debits of the Fund regarding reimbursements,  
10 administration, personnel, operating and other expenses charged by  
11 the Tax Commission and Department, and the duties performed in  
12 detail by agency personnel and Fund personnel for which payment is  
13 made from the Fund. In addition the audit shall include  
14 recommendations for improving claim processing, equipment needed for  
15 claim processing, internal control or structure for administering  
16 the Fund, and such other areas deemed necessary by the State Auditor  
17 and Inspector.

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

20 3. Copies of the audit shall be submitted to the Governor, the  
21 Speaker of the House of Representatives, the President Pro Tempore  
22 of the Senate and the Chairs of the Appropriations Committee of both  
23 the Oklahoma House of Representatives and the Oklahoma State Senate.  
24

1 SECTION 4. AMENDATORY 27A O.S. 2001, Section 2-11-413,  
2 as amended by Section 5, Chapter 230, O.S.L. 2005, and as renumbered  
3 by Section 14, Chapter 230, O.S.L. 2005 (27A O.S. Supp. 2006,  
4 Section 2-11-401.7), is amended to read as follows:

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

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

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

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

20 4. Remove more than ten used tires from the possession of the  
21 dealer unless the dealer provides a manifest form, approved by the  
22 Department, which documents the removal and approved disposition or  
23 sale of the tires. Dealers, haulers, and waste tire facilities  
24

1 shall keep copies of manifests available for inspection for five (5)  
2 years.

3 B. The provisions of subsection A of this section shall not  
4 apply to the use of waste tires for agricultural purposes as  
5 recognized by the State Department of Agriculture, Food, and  
6 Forestry.

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

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

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

24

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

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

6           SECTION 5.           AMENDATORY           27A O.S. 2001, Section 2-6-201, is  
7 amended to read as follows:

8           Section 2-6-201. A. This part shall be known and may be cited  
9 as the "Oklahoma Pollutant Discharge Elimination System Act".

10          B. Nothing contained in the Oklahoma Pollutant Discharge  
11 Elimination System Act shall expand the authority of the Department  
12 of Environmental Quality beyond jurisdictional areas specified in  
13 the Oklahoma Environmental Quality Act. Agricultural and oil and  
14 gas activities shall not be subject to the Oklahoma Pollutant  
15 Discharge Elimination System Act except as specifically provided in  
16 Section ~~11~~ 1-3-101 of this ~~act~~ title.

17          SECTION 6.           AMENDATORY           27A O.S. 2001, Section 2-6-205, is  
18 amended to read as follows:

19          Section 2-6-205. A. Except as otherwise provided in subsection  
20 B of this section, it shall be unlawful for any facility, activity  
21 or entity regulated by the Department of Environmental Quality  
22 pursuant to the Oklahoma Pollutant Discharge Elimination System Act  
23 to discharge any pollutant into waters of the state or elsewhere  
24 without first obtaining a permit from the Executive Director.

1 B. The Environmental Quality Board shall promulgate rules which  
2 prescribe permit requirements applicable to discharges composed  
3 entirely of stormwater. ~~Such~~ The rules may require permits on a  
4 case-by-case basis, exempt categories of discharges, or provide a  
5 schedule for obtaining ~~such~~ a permit, provided however, that no  
6 later than the date that the Department is to receive authorization  
7 to administer a state National Pollutant Discharge Elimination  
8 Systems program, the Board shall have promulgated rules for  
9 stormwater discharges which comply with Environmental Protection  
10 Agency requirements for approval of the state National Pollutant  
11 Discharge Elimination Systems program.

12 C. The Department of Environmental Quality shall have the  
13 authority to determine whether a facility, activity or entity  
14 regulated by the Department pursuant to the Oklahoma Pollutant  
15 Discharge Elimination System Act is required to obtain a stormwater  
16 permit. No other state agency shall condition any license, permit  
17 or other form of authorization issued by that agency upon the  
18 applicant obtaining a stormwater permit from the Department if the  
19 applicant is not required to obtain a stormwater permit pursuant to  
20 Department statutes and rules promulgated by the Board.

21 SECTION 7. This act shall become effective July 1, 2007.

22 SECTION 8. It being immediately necessary for the preservation  
23 of the public peace, health and safety, an emergency is hereby  
24

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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