

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2008

By: Blackwell

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5
6 AS INTRODUCED

7 An Act relating to environment and natural resources;
8 amending 27A O.S. 2001, Section 2-11-405, as
9 renumbered by Section 11, Chapter 230, O.S.L. 2005,
10 and as last amended by Section 2, Chapter 146, O.S.L.
11 2007 (27A O.S. Supp. 2008, Section 2-11-401.4), which
12 relates to allocation of the Waste Tire Recycling
13 Indemnity Fund; allowing certain tires collected from
14 agricultural cooperatives to count towards certain
15 collection requirement; providing an effective date;
16 and declaring an emergency.

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

18 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-11-405,
19 as renumbered by Section 11, Chapter 230, O.S.L. 2005, and as last
20 amended by Section 2, Chapter 146, O.S.L. 2007 (27A O.S. Supp. 2008,
21 Section 2-11-401.4), is amended to read as follows:

22 Section 2-11-401.4 A. Compensation to waste tire facilities
23 and tire-derived fuel or TDF facilities pursuant to this section
24 shall be limited to facilities located in Oklahoma. Compensation
for waste tire activities pursuant to this section shall be limited
to waste tires from Oklahoma. A waste tire facility or tire-derived

1 fuel or TDF facility may transport and deliver waste tires collected
2 from Oklahoma to an out-of-state waste tire facility or TDF facility
3 but shall not be eligible for compensation from the Waste Tire
4 Recycling Indemnity Fund for those waste tires. To be eligible,
5 applicants for compensation shall be in compliance with the Oklahoma
6 Waste Tire Recycling Act.

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

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

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

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

1 monthly to the Department of Environmental Quality, and shall supply
2 any information required by the Department.

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

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

- 11 a. facilities that process waste tires by altering the
12 form of the waste tires but do not produce crumb
13 rubber shall not receive compensation until the
14 facility documents the sale and movement of the
15 processed tire material off-site to a third party,
- 16 b. facilities shall report and certify tire processing
17 activity in terms of weight. The facility shall by
18 sworn affidavit provide to the Department sufficient
19 information to verify that the facility has processed
20 tires and sold processed tires for actual recycling or
21 reuse in accordance with the purposes of the Oklahoma
22 Waste Tire Recycling Act, 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 Department, signed
23 by a dealer at the time of collection, which
24 certifies by sworn affidavit the total amount of

1 waste tire recycling fees, itemized by month,
2 remitted by the dealer since the date the waste
3 tires of the dealer were last collected, and
4 (3) annually demonstrate that at least two percent
5 (2%) of the tires were collected from tire dumps
6 or landfills on the Department priority cleanup
7 list ~~or~~, were collected from community-wide
8 cleanup events approved by the Department, or
9 were farm or agricultural tires collected from
10 agricultural cooperatives.

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

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

1 (\$2.80) per tire for waste tires having a tire rim
2 diameter of greater than seventeen and one-half (17
3 1/2) inches, and eighty cents (\$0.80) per tire for
4 tires having a rim diameter less than or equal to
5 seventeen and one-half (17 1/2) inches.

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

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

1 utilized the tires in accordance with the
2 purposes of the Oklahoma Waste Tire Recycling
3 Act,

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

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

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

1 the date the waste tires of the dealer were last
2 collected.

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

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

19 e. Any entity deemed eligible for reimbursement under the
20 provisions of this paragraph shall be liable for the
21 erosion control project for a period of five (5)
22 years. During the five-year period, if additional
23 cleanup or remediation of an erosion control project
24 is required due to failure or negligence on the part

1 of the original contractor, the original contractor
2 shall be responsible for cleanup costs and shall not
3 be eligible for any additional compensation from the
4 Fund for costs related to that erosion control
5 project;

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

1 shall by sworn affidavit provide sufficient
2 information to the Department to verify that the unit
3 has utilized the tires in accordance with the purposes
4 of the Oklahoma Waste Tire Recycling Act; and

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

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

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

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

23 4. The facilities shall by sworn affidavit provide to the
24 Department sufficient information to verify that the facility has

1 used the tires in accordance with the purposes of the Oklahoma Waste
2 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 Department shall determine the apportionment of payments to be made
6 among the qualified applicants according to the percentage of waste
7 tires used for energy or fuel recovery or the production of crumb
8 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 Department shall determine the
17 apportionment of payments to be made under this subsection among the
18 qualified applicants according to the percentage of waste tires
19 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 2. This act shall become effective July 1, 2009.

5 SECTION 3. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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