

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SUBCOMMITTEE
RECOMMENDATION

FOR ENGROSSED

SENATE BILL NO. 426

By: Leewright and Sparks of the
Senate

and

Pfeiffer of the House

SUBCOMMITTEE RECOMMENDATION

An Act relating to used tires; amending 27A O.S. Sections 2-11-401.1, 2-11-401.2, 2-11-401.4, as amended by Section 1, Chapter 287, O.S.L. 2014 and Section 2-11-401.7 (27A O.S. Supp. 2016, Section 2-11-401.4), which relate to the Oklahoma Used Tire Recycling Act; deleting definitions; adding definitions; modifying definitions; modifying fee schedule for certain tires; implementing fee for certain tires; implementing fee for certain vehicles; removing requirement for Department to maintain list of tires subject to fees; eliminating certain exemptions for certain vehicles; recalculating amount of fee to be remitted by motor license agent; expanding eligible Used Tire Recycling Indemnity Fund expenditures; removing requirement for used tire recycling facilities to collect and transport certain tires; eliminating availability of certain funds for erosion control projects; excluding certain monies from being disbursed from Used Tire Recycling Indemnity Fund; updating language; directing disbursement of certain monies to the Department of Environmental Quality for certain costs; specifying compensation rate for certain tires; instructing certain used tire recycling and TDF facilities to report and certify number of tires; limiting accrued funding for certain purposes; specifying compensable tasks; conforming language; modifying list of

1 prohibited acts; authorizing citation for prohibited
2 acts; disbursing monies from citations; making
3 certain violations separate violations; repealing 27A
4 O.S. 2011, Section 2-11-401.5, as amended by Section
5 2, Chapter 287, O.S.L. 2014 (27A O.S. Supp. 2016,
6 Section 2-11-401.5); and providing an effective date.

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

8 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.1,
9 is amended to read as follows:

10 Section 2-11-401.1 As used in the Oklahoma Used Tire Recycling
11 Act:

12 1. "Automotive dismantler and parts recycler" means the same as
13 defined in Section 591.2 of Title 47 of the Oklahoma Statutes;

14 2. "Commission" means the Oklahoma Tax Commission;

15 3. "Crumb rubber" means fine particles of vulcanized rubber
16 resulting from mechanical or cryogenic size reduction of used tires;

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

18 5. ~~"Erosion control project" means a project involving the~~
19 ~~utilization of used tires for erosion control, bank stabilization or~~
20 ~~other conservation project;~~

21 ~~6.~~ "Fund" means the Used Tire Recycling Indemnity Fund;

22 ~~7.~~ 6. "Motorcycle" means a motor vehicle of a type defined in
23 Section 1-135 of Title 47 of the Oklahoma Statutes;

24 ~~8.~~ 7. "Motor-driven cycle" means a motor vehicle of a type
defined in Section 1-136 of Title 47 of the Oklahoma Statutes;

1 ~~9. "Motorized bicycle" means a motor vehicle of a type defined~~
2 ~~in Section 1-136.1 of Title 47 of the Oklahoma Statutes;~~

3 ~~10.~~ 8. "Motor vehicle" means the same as defined in Section 1-
4 134 of Title 47 of the Oklahoma Statutes;

5 ~~11.~~ 9. "Priority cleanup list" means a list, created and
6 maintained by the Department, of:

7 a. unpermitted dumps which did not exist when the owner
8 took possession of the property where the tires are
9 located, and were created without the consent of or
10 benefit to the owner of the property, and

11 b. such other tire dumps designated by the Department
12 pursuant to Section 2-11-401.6 of this title;

13 ~~12.~~ 10. "Reusable tire" means a tire that has been previously
14 used on a vehicle, not currently mounted on a vehicle, but can be
15 legally placed into service for vehicle use in Oklahoma;

16 11. "Semitrailer" means the same as defined in Section 1-162 of
17 Title 47 of the Oklahoma Statutes;

18 12. "Tire" means any solid or air-filled covering for ~~motor~~
19 vehicle wheels;

20 13. "Tire dealer" means any person engaged in the business of
21 selling new and used tires to final consumers, not for resale;

22 14. "Tire-derived fuel facility" or "TDF facility" means a
23 facility that uses processed tires or whole used tires for energy or
24 fuel recovery;

1 15. "Trailer" means the same as defined in Section 1-180 of
2 Title 47 of the Oklahoma Statutes;

3 16. "Used tire recycling facility" means any place which is
4 permitted as a solid waste disposal site, in accordance with the
5 Oklahoma Solid Waste Management Act, at which used tires are
6 processed;

7 ~~16.~~ 17. "Used tire processing" means altering the form of whole
8 used tires by shredding, chipping, or other method approved by the
9 Department, except baling and pyrolysis; ~~and~~

10 ~~17.~~ 18. "Used tire" means an unprocessed whole tire or tire
11 part that can no longer be used for its ~~original~~ originally intended
12 purpose but can be beneficially reused as approved by the
13 Department. Any used tire collected in accordance with the
14 requirements of the Oklahoma Used Tire Recycling Act is not
15 considered to be discarded. A tire that can be used, reused or
16 legally modified to be reused for its original intended purpose
17 shall not be a used tire; and

18 19. "Vehicle" means the same as defined in Section 1-186 of
19 Title 47 of the Oklahoma Statutes.

20 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-11-401.2,
21 is amended to read as follows:

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

1 a. at the time any tire:

2 (1) with a rim diameter of less than or equal to
3 nineteen and one-half (19 1/2) inches is sold by
4 a tire dealer, there shall be assessed a used
5 tire recycling fee of Two Dollars and fifty cents
6 (\$2.50) per tire,

7 (2) with a rim diameter greater than nineteen and
8 one-half (19 1/2) inches and a tread width of
9 twelve (12) inches or less is sold by a tire
10 dealer, there shall be assessed a used tire
11 recycling fee of Three Dollars and fifty cents
12 (\$3.50) per tire,

13 (3) with a rim diameter greater than nineteen and
14 one-half (19 1/2) inches and a tread width of
15 greater than twelve (12) inches is sold by a tire
16 dealer, there shall be assessed a used tire
17 recycling fee of Seven Dollars (\$7.00) per tire,
18 and

19 ~~+(3)~~ (4) is sold by a tire dealer for use on a motorcycle,
20 or motor-driven cycle ~~or motorized bicycle~~, there
21 shall be assessed a used tire recycling fee of
22 One Dollar (\$1.00) per tire,

23 b. at any time a motor vehicle with a tire rim diameter
24 of less than or equal to nineteen and one-half (19

1 1/2) inches is first registered in this state, there
2 shall be assessed a used tire recycling fee of Two
3 Dollars and fifty cents (\$2.50) per tire, except as
4 otherwise provided by ~~subparagraph d~~ subparagraphs e
5 and f of this paragraph,

6 c. at any time a ~~motor~~ vehicle with a tire rim diameter
7 of greater than nineteen and one-half (19 1/2) inches
8 is first registered in this state, there shall be
9 assessed a used tire recycling fee of Three Dollars
10 and fifty cents (\$3.50) per tire, except as otherwise
11 provided by ~~subparagraph d~~ subparagraphs e, f and g of
12 this paragraph, ~~and~~

13 d. at any time a trailer or semitrailer with a tire rim
14 diameter of less than or equal to nineteen and one-
15 half (19 1/2) inches is first titled in this state,
16 there shall be assessed a used tire recycling fee of
17 Two Dollars Fifty Cents (\$2.50) per tire,

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

22 f. at the time a motor vehicle is first titled in this
23 state, to be registered under the provisions of
24 Section 1120 of Title 47 of the Oklahoma Statutes,

1 there shall be assessed a used tire recycling fee of
2 Seven Dollars (\$7.00), and

3 g. at the time a trailer or semitrailer is first titled
4 in this state, to be registered under the provisions
5 of Section 1133 of Title 47 of the Oklahoma Statutes,
6 these shall be assessed a used tire recycling fee of
7 Five Dollars (\$5.00).

8 ~~2. Motor vehicles registered pursuant to Section 1120 of Title~~
9 ~~47 of the Oklahoma Statutes shall be exempt from the provisions of~~
10 ~~this subsection.~~

11 ~~3.~~ 2. No fee shall be assessed by a tire dealer for ~~used~~
12 reusable tires or retreaded tires for which the tire dealer can
13 document that the recycling fee has been previously paid.

14 ~~4.~~ 3. All-terrain vehicles and off-road motorcycles registered
15 pursuant to the provisions of Section 1132 of Title 47 of the
16 Oklahoma Statutes shall be exempt from the provisions of this
17 section.

18 B. 1. ~~Except as otherwise provided by this section, beginning~~
19 ~~July 1, 2010, tires used on implements of husbandry and agricultural~~
20 ~~equipment that are not more than fourteen (14) inches wide and~~
21 ~~forty-four (44) inches in diameter shall be assessed a used tire~~
22 ~~recycling fee of five cents (\$0.05) per pound of the weight of the~~
23 ~~tire, with a minimum fee of Two Dollars and fifty cents (\$2.50) per~~
24 ~~tire. Beginning July 1, 2013, tires used on implements of husbandry~~

1 ~~and agricultural equipment that are any size shall be assessed a~~
2 ~~used tire recycling fee of five cents (\$0.05) per pound of the~~
3 ~~weight of the tire, with a minimum fee of Two Dollars and fifty~~
4 ~~cents (\$2.50) per tire~~ For tires used on implements of husbandry and
5 agricultural equipment with a rim diameter of less than or equal to
6 nineteen and one-half (19 1/2) inches and that are less than thirty
7 (30) inches in total diameter, there shall be assessed a used tire
8 recycling fee of Two Dollars and Fifty cents (\$2.50) per tire.

9 2. ~~The Department shall maintain a list of agricultural tire~~
10 ~~weights for tires subject to the assessment and make that list~~
11 ~~available to tire dealers upon request~~ For tires used on implements
12 of husbandry and agricultural equipment with a rim diameter of
13 greater than nineteen and one-half (19 1/2) inches and that are less
14 than thirty (30) inches in total diameter, there shall be assessed a
15 used tire recycling fee of Three Dollars and Fifty cents (\$3.50) per
16 tire.

17 3. ~~No fee shall be assessed by a tire dealer if the customer~~
18 ~~retains the used agricultural tire for use on a farm or ranch~~ For
19 tires used on implements of husbandry and agricultural equipment
20 that are greater than thirty (30) inches in total diameter and less
21 than or equal to forty-four (44) inches in total diameter, there
22 shall be assessed a used tire recycling fee of Eight Dollars (\$8.00)
23 per tire. No fee shall be assessed by a tire dealer if the customer
24 retains the used agricultural tire for use on a farm or ranch. The

1 customer may return the used tire to the tire dealer at a later date
2 and shall be assessed the proper fee.

3 4. For tires used on implements of husbandry and agricultural
4 equipment that are greater than forty-four (44) inches in total
5 diameter and less than or equal to seventy-two (72) inches in total
6 diameter and not more than thirty (30) inches wide, there shall be
7 assessed a used tire recycling fee of Sixteen Dollars (\$16.00) per
8 tire. No fee shall be assessed by a tire dealer if the customer
9 retains the used agricultural tire for use on a farm or ranch. The
10 customer may return the used tire to the tire dealer at a later date
11 and shall be assessed the proper fee.

12 ~~4.~~ 5. A tire dealer may pay the assessed fee for any used
13 agricultural tire in current inventory and include that tire in the
14 used tire recycling program.

15 C. 1. The tire dealer and motor license agent shall remit such
16 fee to the Oklahoma Tax Commission in the same manner as provided by
17 Section 1365 of Title 68 of the Oklahoma Statutes.

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

22 3. Motor license agents shall remit ~~all but One Dollar (\$1.00)~~
23 ninety percent (90%) of the fee assessed on each vehicle registered.
24

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

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

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

16 F. All penalties or interest imposed by this section shall be
17 recoverable by the Tax Commission as a part of the fee imposed and
18 all penalties and interest shall be apportioned the same as the fee
19 on which the penalties or interest are collected.

20 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
21 as amended by Section 1, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
22 2016, Section 2-11-401.4), is amended to read as follows:

23 Section 2-11-401.4 A. Compensation to used tire facilities and
24 tire-derived fuel or TDF facilities pursuant to this section shall

1 be limited to facilities located in Oklahoma. Compensation for used
2 tire activities pursuant to this section shall be limited to used
3 tires from Oklahoma. A used tire recycling facility or tire-derived
4 fuel or TDF facility may transport and deliver used tires collected
5 from Oklahoma to an out-of-state used tire recycling facility or TDF
6 facility but shall not be eligible for compensation from the Used
7 Tire Recycling Indemnity Fund for those used tires. To be eligible,
8 applicants for compensation shall be in compliance with the Oklahoma
9 Used Tire Recycling Act.

10 B. The monies accruing annually to the Used Tire Recycling
11 Indemnity Fund shall be allocated first to the Department of
12 Environmental Quality Revolving Fund, to be used for implementing
13 applicable requirements related to the control of mobile and area
14 sources of air emissions, for monitoring and modeling the impacts on
15 Oklahoma of air pollution from other states, ~~and~~ for implementing
16 and enforcing other applicable air pollution control requirements or
17 for other environmental programs or projects. The amount of money
18 allocated for this purpose shall be twenty-eight percent (28%) of
19 the funds produced by the two-dollar-and-fifty-cent per tire fee
20 assessed pursuant to division (1) of subparagraph a of paragraph 1
21 of subsection A of Section 2-11-401.2 of this title and subparagraph
22 b of paragraph 1 of subsection A of Section 2-11-401.2 of this
23 title. After this allocation is deducted, the balance of the monies
24 shall be allocated as follows:

1 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax
2 Commission and five and three-fourths percent (5.75%) to the
3 Department of Environmental Quality for the purpose of administering
4 the requirements of the Oklahoma Used Tire Recycling Act; and

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

9 C. After the allocations under subsection B of this section are
10 made, the balance of monies in the Fund shall be available for
11 compensation pursuant to the provisions of the Oklahoma Used Tire
12 Recycling Act as follows:

13 1. Compensation to used tire facilities for used tire
14 processing, at the rate of Fifty-four Dollars (\$54.00) per ton of
15 processed tire material. For compensation the following conditions
16 shall apply:

- 17 a. facilities that process used tires by altering the
18 form of the used tires but do not produce crumb rubber
19 shall not receive compensation until the facility
20 documents the sale and movement of the processed used
21 tire material off-site to a third party,
- 22 b. facilities shall report and certify used tire
23 processing activity in terms of weight. The facility
24 shall by sworn affidavit provide to the Department

sufficient information to verify that the facility has processed used tires and sold processed used tires for actual recycling or reuse in accordance with the purposes of the Oklahoma Used Tire Recycling Act, and

c. to be eligible for compensation, a facility shall not have accumulated more processed material than the amount for which the facility has provided financial assurance under its solid waste permit or the amount accumulated from three (3) years of operation, whichever is less;

2. a. Compensation to used tire recycling facilities or TDF facilities at the rate of Fifty-three Dollars (\$53.00) per ton of whole used tires for the collection and transportation of used tires from Oklahoma tire dealers, automotive dismantlers and parts recyclers, solid waste landfill sites, and dumps certified by the Department priority cleanup list, and delivering the tires to a used tire recycling facility or TDF facility. The collection and transportation of used tires shall be provided by the used tire recycling facility or TDF facility at no additional cost to the tire dealer or automotive dismantler and parts recycler or to the Fund. The used tire recycling facility or TDF facility shall collect from any

1 location at which there are at least three hundred
2 used tires.

3 b. Compensation under this paragraph shall not be payable
4 until the used tires have been actually processed
5 according to the solid waste permit for the facility
6 or actually used for energy or fuel recovery. A TDF
7 facility that collects and transports whole used tires
8 shall be eligible for compensation under this
9 paragraph only for those whole used tires consumed by
10 that facility.

11 c. No tire dealer shall charge any customer any
12 additional fee for the management, recycling, or
13 disposal of any used tire upon which the used tire
14 recycling fee has been remitted to the Tax Commission.
15 For customers who choose not to leave a used tire upon
16 which the used tire recycling fee has been remitted to
17 the Tax Commission, the tire dealer shall issue a
18 receipt which entitles the customer to deliver the
19 used tire to the dealer at a later date.

20 d. To be eligible for compensation pursuant to this
21 paragraph, the used tire recycling facility or TDF
22 facility shall:

23 (1) demonstrate to the satisfaction of the Department
24 that the facility is regularly engaged in the

1 collection, transportation and delivery of used
2 tires to a used tire recycling facility or to a
3 TDF facility, on a statewide basis, and from each
4 county of the state,

5 (2) provide documentation to the Department, signed
6 by a dealer at the time of collection, which
7 certifies remittance of appropriate fees to the
8 Oklahoma Tax Commission as a participating tire
9 dealer pursuant to the provisions of the Oklahoma
10 Used Tire Recycling Act, and

11 (3) annually demonstrate that at least three to six
12 percent (3-6%) of the tires were collected from
13 tire dumps or landfills on the Department
14 priority cleanup list or community-wide cleanup
15 events approved by the Department. The
16 Department is authorized to determine
17 periodically the applicable percentage within the
18 specified range set forth in this division based
19 on the number of tires remaining in illegal dumps
20 and available funding.

21 e. In lieu of proof of remitted tire recycling fees, the
22 used tire recycling facility or TDF facility shall
23 accept proof of purchase of a salvage vehicle
24 registered in Oklahoma by an automotive dismantler and

1 parts recycler, licensed pursuant to the Automotive
2 Dismantlers and Parts Recycler Act, for the collection
3 and transportation of up to five used tires per
4 salvage vehicle purchased on or after January 1, 1996.

5 ~~f. Beginning July 1, 2010, a used tire recycling facility~~
6 ~~or TDF facility shall be required to collect and~~
7 ~~transport tires used on implements of husbandry and~~
8 ~~agricultural equipment that are not more than fourteen~~
9 ~~(14) inches wide and forty-four (44) inches in~~
10 ~~diameter. Beginning July 1, 2013, a used tire~~
11 ~~recycling facility or TDF facility shall be required~~
12 ~~to collect and transport tires used on implements of~~
13 ~~husbandry and agricultural equipment that are any~~
14 ~~size;~~

15 3. a. ~~Compensation to a person, corporation or other legal~~
16 ~~entity who has obtained a permit or other~~
17 ~~authorization from the United States Army Corps of~~
18 ~~Engineers or a local Conservation District to provide~~
19 ~~services for erosion control projects. Compensation~~
20 ~~shall be at the rate of Two Dollars and eighty cents~~
21 ~~(\$2.80) per tire for used tires having a tire rim~~
22 ~~diameter of greater than seventeen and one-half (17~~
23 ~~1/2) inches, and eighty cents (\$0.80) per tire for~~
24

1 ~~tires having a rim diameter less than or equal to~~
2 ~~seventeen and one-half (17 1/2) inches.~~

3 ~~b. Reimbursement under this paragraph shall be subject to~~
4 ~~the following:~~

5 ~~(1) the applicant for reimbursement collects or~~
6 ~~provides for the collection and utilization of~~
7 ~~used tires in an erosion control project in~~
8 ~~Oklahoma in accordance with a written plan~~
9 ~~approved by the United States Army Corps of~~
10 ~~Engineers or by a local Conservation District,~~

11 ~~(2) the used tires are collected and transported to~~
12 ~~the site of the erosion control project,~~

13 ~~(3) the site landowner agrees to plant trees or other~~
14 ~~suitable vegetation in accordance with a planting~~
15 ~~plan developed in conjunction with the Division~~
16 ~~of Forestry of the Oklahoma Department of~~
17 ~~Agriculture, Food, and Forestry,~~

18 ~~(4) the applicant reports and certifies the number of~~
19 ~~used tires utilized. The applicant shall by~~
20 ~~sworn affidavit provide to the Department~~
21 ~~sufficient information to verify that the~~
22 ~~applicant has utilized the tires in accordance~~
23 ~~with the purposes of the Oklahoma Used Tire~~
24 ~~Recycling Act,~~

1 ~~(5) the applicant annually demonstrates that at least~~
2 ~~three to six percent (3-6%) of the tires utilized~~
3 ~~by the applicant for which compensation is~~
4 ~~requested were collected from tire dumps or~~
5 ~~landfills on the Department priority cleanup list~~
6 ~~or community-wide cleanup events approved by the~~
7 ~~Department. The Department is authorized to~~
8 ~~determine periodically the applicable percentage~~
9 ~~within the specified range as set forth in this~~
10 ~~division based on the number of tires remaining~~
11 ~~in illegal dumps and available funding,~~

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

20 ~~(7) the applicant provides documentation to the~~
21 ~~Department, signed by a dealer at the time of~~
22 ~~collection, which certifies remittance of~~
23 ~~appropriate fees to the Oklahoma Tax Commission~~
24 ~~as a participating tire dealer pursuant to the~~

~~provisions of the Oklahoma Used Tire Recycling Act.~~

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

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

~~e. Any entity deemed eligible for reimbursement under the provisions of this paragraph shall be liable for the erosion control project for a period of five (5) years. During the five-year period, if additional cleanup or remediation of an erosion control project 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 used tires in an engineering project.
9 Compensation shall be at the rate of fifty cents
10 (\$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 used
14 tires shall not accumulate more than fifty used tire
15 bales prior to beginning construction of an approved
16 project.
- 17 d. Used 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 used tires
23 in an engineering project shall report and certify
24 whole used 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 Used Tire Recycling Act; and

5 ~~5.~~ 4. 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 used 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 used tire recycling facilities that
14 produce crumb rubber for compensation at the rate of Twenty-nine
15 Dollars (\$29.00) per ton of processed or used tires utilized for
16 energy 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 used tire processing under subsection C of this section.

20 3. TDF facilities and used tire recycling facilities authorized
21 to receive reimbursement under this subsection shall report and
22 certify 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 Used
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 used
7 tires intended for energy or fuel recovery or the production of
8 crumb rubber.

9 E. 1. After the allocations under subsections B, C and D of
10 this section are made, any remaining monies in the Fund shall be
11 available for capital investment reimbursement to used tire
12 facilities and TDF facilities for the purchase of equipment
13 necessary to utilize used tires. Only equipment purchased on or
14 after January 1, 1995, shall be eligible. The facilities are
15 eligible for compensation at a rate of Twenty Dollars (\$20.00) per
16 ton of used tires used. Total reimbursement shall not exceed one
17 hundred percent (100%) of the capital investment in eligible
18 equipment. The facilities may apply for compensation monthly to the
19 Department of Environmental Quality and shall supply any information
20 required by the Department.

21 2. If the Fund contains insufficient funds in any month to
22 satisfy the eligible reimbursements under this subsection, the
23 Department shall determine the apportionment of payments to be made
24 among the qualified applicants.

1 F. ~~After~~ Subject to subsection G of this section, after the
2 allocations under subsections B, C, D and E of this section are
3 made, any remaining monies in the Fund, excluding monies collected
4 pursuant to paragraphs 3 and 4 of subsection B of Section 2-11-401.2
5 of this title, shall be disbursed as ~~additional~~ follows:

6 1. Additional compensation to used tire recycling facilities or
7 TDF facilities for the remediation of dumps certified by the
8 Department and delivering the tires to a used tire recycling
9 facility or a TDF facility. The Department shall determine
10 additional compensation made to qualified applicants under this
11 subsection based on cleanup feasibility of the dump. ~~By July 1,~~
12 ~~2012, the~~ The Board shall promulgate rules establishing unit costs
13 for compensation based on the remediation feasibility of the tire
14 dumps. The Department may solicit bids for the remediation of tire
15 dumps if no used tire recycling facilities or TDF facilities agree
16 to remediate a priority tire dump authorized by the Department or if
17 the Department determines the qualified applicant has not remediated
18 the tires in the tire dump to meet reference conditions of
19 comparable property in the immediate area.

20 2. Reimbursement to the Department of Environmental Quality for
21 necessary costs associated with remediation or other necessary
22 actions at sites at which used tires or other wastes incidental to
23 the used tires present a threat to human health or environment, or
24 for projects to increase market demand for products made from

1 Oklahoma used tires. The Solid Waste Management Advisory Council
2 shall recommend and the Environmental Quality Board shall adopt
3 rules governing the types of market development projects that may
4 qualify for reimbursement. To the extent possible, the rules shall
5 favor and the Department shall prioritize projects with the greatest
6 potential to benefit schools, communities and local governments.
7 Upon its receipt of documentation from the Department showing
8 expenditures relating to the remediation of such sites or market
9 development projects, the Tax Commission shall reimburse the
10 Department for its documented expenditures.

11 G. Accrued funding for the purposes specified in subsection F
12 of this section shall not exceed Five Hundred Thousand Dollars
13 (\$500,000.00). Once Five Hundred Thousand Dollars (\$500,000.00) is
14 reached, any additional funds shall be distributed as additional
15 compensation under paragraph 1 of subsection C of this section.

16 H. 1. Used tire recycling facilities and TDF facilities that
17 collect, transport and process tires used on implements of husbandry
18 and agricultural equipment that are greater than thirty (30) inches
19 in total diameter and less than or equal to forty-four (44) inches
20 in total diameter shall be eligible for compensation at a rate of
21 Eight Dollars (\$8.00) per tire.

22 a. Collection, transportation and processing of tires
23 under this paragraph shall be considered a compensable
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1 event separate from and in addition to any
2 compensation under subsection C of this section.

3 b. Used tire recycling facilities and TDF facilities
4 authorized to receive reimbursement under this
5 paragraph shall report and certify the number of tires
6 collected and transported.

7 2. Used tire recycling facilities and TDF facilities that
8 collect, transport and process tires used on implements of husbandry
9 and agricultural equipment that are greater than forty-four (44)
10 inches in total diameter and less than or equal to seventy-two (72)
11 inches in total diameter and not more than thirty (30) inches wide,
12 shall be eligible for compensation at the rate of Sixteen Dollars
13 (\$16.00) per tire.

14 a. Collection, transportation and processing of tires
15 under this paragraph shall be considered a compensable
16 event separate from and in addition to any
17 compensation under subsection C of this section.

18 b. Used tire recycling facilities and TDF facilities
19 authorized to receive reimbursement under this
20 paragraph shall report and certify the number of tires
21 collected and transported.

22 I. Used tire recycling facilities, TDF facilities, or persons,
23 corporations or other legal entities authorized by the provisions of
24 the Oklahoma Used Tire Recycling Act to receive reimbursement shall

1 demonstrate that the facilities or legal entities have successfully
2 complied with the requirements of the Oklahoma Used Tire Recycling
3 Act through the filing of appropriate applications, reports, and
4 other documentation that may be required by the Tax Commission and
5 the Department.

6 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-11-401.7,
7 is amended to read as follows:

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

10 1. Own or operate a site used for the storage, collection or
11 disposal of more than fifty used tires except at a site or facility
12 permitted or approved by the Department of Environmental Quality to
13 accept used tires. The provisions of this paragraph shall not apply
14 to tire manufacturers, retailers, wholesalers and retreaders who
15 store a total of no more than two thousand five hundred ~~or fewer~~
16 used tires at their place of business or ~~designated~~ an ancillary
17 off-premises storage site approved by the Department;

18 2. Dispose of used tires at any site or facility other than a
19 site or facility for which a permit has been issued, or which has
20 been otherwise authorized by the Department;

21 3. Knowingly transport or knowingly allow used tires under the
22 control or in the possession of the person to be transported to an
23 unpermitted or unapproved site or facility; ~~or~~

1 4. Remove more than ten used tires or reusable tires from the
2 possession of the dealer unless the dealer provides a manifest form,
3 approved by the Department, which documents the removal and approved
4 disposition or sale of the tires and which accompanies the tires in
5 transport. Dealers, haulers, and used tire recycling facilities
6 shall keep copies of manifests available for inspection for five (5)
7 years; or

8 5. Sell any tire without collecting and remitting appropriate
9 fees to the Tax Commission in accordance with Section 2-11-401.2 of
10 this title.

11 B. The provisions of subsection A of this section shall not
12 apply to the use of used tires for agricultural purposes as
13 recognized by the Oklahoma Department of Agriculture, Food, and
14 Forestry.

15 C. The provisions of paragraphs 2 and 3 of subsection A of this
16 section shall not be construed to prevent an individual from
17 disposing of used tires previously used by the individual as vehicle
18 or equipment tires if the disposal is upon property owned by the
19 individual and the disposal does not create a nuisance or pose a
20 hazard to the public health or environment.

21 D. The provisions of paragraphs 2 and 3 of subsection A of this
22 section shall not be construed to prevent a used tire recycling
23 facility or tire-derived fuel or TDF facility from transporting and
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1 delivering used tires to an out-of-state used tire recycling
2 facility or TDF facility.

3 E. 1. Except as otherwise ordered by the court, if the
4 administrative enforcement process for a violation of an order
5 issued by the Department for remediation, corrective action or
6 cleanup of an illegal tire dump has been exhausted, the Department
7 or a representative of the Department, upon notice to the landowner
8 and an opportunity for the landowner to be heard on the issue, may
9 enter the property to clean up the tire dump.

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

13 3. The Department shall deposit any excess funds recovered
14 through such action into the Used Tire Recycling Indemnity Fund.

15 F. Notwithstanding the provisions of Section 2-3-504 of this
16 title or any other remedy authorized by law, any peace officer of
17 this state or of any political subdivision of this state may issue a
18 citation to any person committing a violation of paragraph 1, 2, 3
19 or 4 of subsection A of this section. Such citation shall be in an
20 amount not to exceed Two Hundred Dollars (\$200.00) for the first
21 offense, not to exceed Four Hundred Dollars (\$400.00) for the second
22 offense and not to exceed One Thousand Dollars (\$1,000.00) for the
23 third or subsequent offense. The penalties collected from the
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1 payment of such citations shall not include court costs and shall be
2 divided as follows:

3 1. One-half (1/2) shall be paid into the reward fund created
4 pursuant to Section 1334 of Title 22 of the Oklahoma Statutes; and

5 2. One-half (1/2) shall be paid into the sheriff's service fee
6 account for that county to be used for environmental enforcement and
7 cleanup programs.

8 G. For purposes of subsection F of this subsection, each day or
9 part of a day upon which a violation occurs shall constitute a
10 separate violation.

11 SECTION 5. REPEALER 27A O.S. 2011, Section 2-11-401.5,
12 as amended by Section 2, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
13 2016, Section 2-11-401.5), is hereby repealed.

14 SECTION 6. This act shall become effective November 1, 2017.

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