

1 **SENATE FLOOR VERSION**

2 February 22, 2017

3 **AS AMENDED**

4 COMMITTEE SUBSTITUTE
5 FOR

6 SENATE BILL NO. 426

By: Leewright and Sparks of the
Senate

and

Pfeiffer of the House

8
9 [used tires - Used Tire Recycling Indemnity Fund
10 expenditures - used tire recycling and TDF facilities
11 - Department of Environmental Quality - effective
12 date]

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

14 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.1,

15 is amended to read as follows:

16 Section 2-11-401.1. As used in the Oklahoma Used Tire Recycling
17 Act:

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

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

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

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

1 5. "Erosion control project" means a project involving the
2 utilization of used tires for erosion control, bank stabilization or
3 other conservation project;

4 6. "Fund" means the Used Tire Recycling Indemnity Fund;

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

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

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

11 10. "Motor vehicle" means the same as defined in Section 1-134
12 of Title 47 of the Oklahoma Statutes;

13 11. "Priority cleanup list" means a list, created and
14 maintained by the Department, of:

15 a. unpermitted dumps which did not exist when the owner
16 took possession of the property where the tires are
17 located, and were created without the consent of or
18 benefit to the owner of the property, and

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

21 12. "Reusable tire" means a tire that has been previously used
22 on a vehicle, not currently mounted on a vehicle, but can be legally
23 placed into service for vehicle use in Oklahoma;

24

1 13. "Semitrailer" means the same as defined in Section 1-162 of
2 Title 47 of the Oklahoma Statutes;

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

5 ~~13.~~ 15. "Tire dealer" means any person engaged in the business
6 of selling new and used tires to final consumers, not for resale;

7 ~~14.~~ 16. "Tire-derived fuel facility" or "TDF facility" means a
8 facility that uses processed tires or whole used tires for energy or
9 fuel recovery;

10 ~~15.~~ 17. "Trailer" means the same as defined in Section 1-180 of
11 Title 47 of the Oklahoma Statutes;

12 18. "Used tire recycling facility" means any place which is
13 permitted as a solid waste disposal site, in accordance with the
14 Oklahoma Solid Waste Management Act, at which used tires are
15 processed;

16 ~~16.~~ 19. "Used tire processing" means altering the form of whole
17 used tires by shredding, chipping, or other method approved by the
18 Department, except baling and pyrolysis; ~~and~~

19 ~~17.~~ 20. "Used tire" means an unprocessed whole tire or tire
20 part that can no longer be used for its ~~original~~ originally intended
21 purpose but can be beneficially reused as approved by the
22 Department. Any used tire collected in accordance with the
23 requirements of the Oklahoma Used Tire Recycling Act is not
24 considered to be discarded. A tire that can be used, reused or

1 | legally modified to be reused for its original intended purpose
2 | shall not be a used tire; and

3 | 21. "Vehicle" means the same as defined in Section 1-186 of
4 | Title 47 of the Oklahoma Statutes.

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

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

10 | a. at the time any tire:

11 | (1) with a rim diameter of less than or equal to
12 | nineteen and one-half (19 1/2) inches is sold by
13 | a tire dealer, there shall be assessed a used
14 | tire recycling fee of Two Dollars and fifty cents
15 | (\$2.50) per tire,

16 | (2) with a rim diameter greater than nineteen and
17 | one-half (19 1/2) inches is sold by a tire
18 | dealer, there shall be assessed a used tire
19 | recycling fee of Three Dollars and fifty cents
20 | (\$3.50) per tire, and

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

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

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

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

19 e. at the time a motor vehicle is first titled in this
20 state, to be registered under the provisions of
21 Section 1120 of Title 47 of the Oklahoma Statutes,
22 there shall be assessed a used tire recycling fee of
23 Five Dollars (\$5.00).

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

4 ~~3.~~ 2. No fee shall be assessed by a tire dealer for used tires
5 or retreaded tires for which the tire dealer can document that the
6 recycling fee has been previously paid.

7 ~~4.~~ 3. All-terrain vehicles and off-road motorcycles registered
8 pursuant to the provisions of Section 1132 of Title 47 of the
9 Oklahoma Statutes shall be exempt from the provisions of this
10 section.

11 B. 1. ~~Except as otherwise provided by this section, beginning~~
12 ~~July 1, 2010, tires used on implements of husbandry and agricultural~~
13 ~~equipment that are not more than fourteen (14) inches wide and~~
14 ~~forty-four (44) inches in diameter shall be assessed a used tire~~
15 ~~recycling fee of five cents (\$0.05) per pound of the weight of the~~
16 ~~tire, with a minimum fee of Two Dollars and fifty cents (\$2.50) per~~
17 ~~tire. Beginning July 1, 2013, tires used on implements of husbandry~~
18 ~~and agricultural equipment that are any size shall be assessed a~~
19 ~~used tire recycling fee of five cents (\$0.05) per pound of the~~
20 ~~weight of the tire, with a minimum fee of Two Dollars and fifty~~
21 ~~cents (\$2.50) per tire~~ For tires used on implements of husbandry and
22 agricultural equipment with a rim diameter of less than or equal to
23 nineteen and one-half (19 1/2) inches and that are less than thirty
24

1 (30) inches in total diameter, there shall be assessed a used tire
2 recycling fee of Two Dollars and Fifty cents (\$2.50) per tire.

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

11 ~~3. No fee shall be assessed by a tire dealer if the customer~~
12 ~~retains the used agricultural tire for use on a farm or ranch~~ For
13 tires used on implements of husbandry and agricultural equipment
14 that are greater than thirty (30) inches in total diameter and less
15 than or equal to forty-four (44) inches in total diameter, there
16 shall be assessed a used tire recycling fee of Eight Dollars (\$8.00)
17 per tire. 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. The
19 customer may return the used tire to the tire dealer at a later date
20 and shall be assessed the proper fee.

21 4. For tires used on implements of husbandry and agricultural
22 equipment that are greater than forty-four (44) inches in total
23 diameter and less than or equal to seventy-two (72) inches in total
24 diameter and not more than thirty (30) inches wide, there shall be

1 assessed a used tire recycling fee of Sixteen Dollars (\$16.00) per
2 tire. No fee shall be assessed by a tire dealer if the customer
3 retains the used agricultural tire for use on a farm or ranch. The
4 customer may return the used tire to the tire dealer at a later date
5 and shall be assessed the proper fee.

6 ~~4.~~ 5. A tire dealer may pay the assessed fee for any used
7 agricultural tire in current inventory and include that tire in the
8 used tire recycling program.

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

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

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

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

24

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

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

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

14 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
15 as amended by Section 1, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
16 2016, Section 2-11-401.4), is amended to read as follows:

17 Section 2-11-401.4. A. Compensation to used tire facilities
18 and tire-derived fuel or TDF facilities pursuant to this section
19 shall be limited to facilities located in Oklahoma. Compensation
20 for used tire activities pursuant to this section shall be limited
21 to used tires from Oklahoma. A used tire recycling facility or
22 tire-derived fuel or TDF facility may transport and deliver used
23 tires collected from Oklahoma to an out-of-state used tire recycling
24 facility or TDF facility but shall not be eligible for compensation

1 from the Used Tire Recycling Indemnity Fund for those used tires.
2 To be eligible, applicants for compensation shall be in compliance
3 with the Oklahoma Used Tire Recycling Act.

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

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

23 2. An amount not to exceed Fifty Thousand Dollars (\$50,000.00)
24 per audit to the State Auditor and Inspector for the purpose of

1 conducting audits of the Oklahoma Used Tire Recycling Program
2 pursuant to Section 2-11-401.6 of this title.

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 Used Tire
6 Recycling Act as follows:

7 1. Compensation to used tire facilities for used 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 used tires by altering the
12 form of the used tires but do not produce crumb rubber
13 shall not receive compensation until the facility
14 documents the sale and movement of the processed used
15 tire material off-site to a third party,

16 b. facilities shall report and certify used tire
17 processing activity in terms of weight. The facility
18 shall by sworn affidavit provide to the Department
19 sufficient information to verify that the facility has
20 processed used tires and sold processed used tires for
21 actual recycling or reuse in accordance with the
22 purposes of the Oklahoma Used 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 used tire recycling facilities or TDF
6 facilities at the rate of Fifty-three Dollars (\$53.00)
7 per ton of whole used tires for the collection and
8 transportation of used 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 used tire recycling facility or TDF
13 facility. The collection and transportation of used
14 tires shall be provided by the used tire recycling
15 facility or TDF facility at no additional cost to the
16 tire dealer or automotive dismantler and parts
17 recycler or to the Fund. The used tire recycling
18 facility or TDF facility shall collect from any
19 location at which there are at least three hundred
20 used tires.

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

1 facility that collects and transports whole used tires
2 shall be eligible for compensation under this
3 paragraph only for those whole used tires consumed by
4 that facility.

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

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

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

23 (2) provide documentation to the Department, signed
24 by a dealer at the time of collection, which

1 certifies remittance of appropriate fees to the
2 Oklahoma Tax Commission as a participating tire
3 dealer pursuant to the provisions of the Oklahoma
4 Used Tire Recycling Act, and

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

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

23 ~~f. Beginning July 1, 2010, a used tire recycling facility~~
24 ~~or TDF facility shall be required to collect and~~

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

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

20 b. Reimbursement under this paragraph shall be subject to
21 the following:

22 (1) the applicant for reimbursement collects or
23 provides for the collection and utilization of
24 used tires in an erosion control project in

1 Oklahoma in accordance with a written plan
2 approved by the United States Army Corps of
3 Engineers or by a local Conservation District,

4 (2) the used tires are collected and transported to
5 the site of the erosion control project,

6 (3) the site landowner agrees to plant trees or other
7 suitable vegetation in accordance with a planting
8 plan developed in conjunction with the Division
9 of Forestry of the Oklahoma Department of
10 Agriculture, Food, and Forestry,

11 (4) the applicant reports and certifies the number of
12 used tires utilized. The applicant shall by
13 sworn affidavit provide to the Department
14 sufficient information to verify that the
15 applicant has utilized the tires in accordance
16 with the purposes of the Oklahoma Used Tire
17 Recycling Act,

18 (5) the applicant annually demonstrates that at least
19 three to six percent (3-6%) of the tires utilized
20 by the applicant for which compensation is
21 requested were collected from tire dumps or
22 landfills on the Department priority cleanup list
23 or community-wide cleanup events approved by the
24 Department. The Department is authorized to

1 determine periodically the applicable percentage
2 within the specified range as set forth in this
3 division based on the number of tires remaining
4 in illegal dumps and available funding,

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

13 (7) the applicant provides documentation to the
14 Department, signed by a dealer at the time of
15 collection, which certifies remittance of
16 appropriate fees to the Oklahoma Tax Commission
17 as a participating tire dealer pursuant to the
18 provisions of the Oklahoma Used Tire Recycling
19 Act.

20 c. In lieu of proof of remitted tire recycling fees, the
21 applicant shall accept proof of purchase of a salvage
22 vehicle registered in Oklahoma by an automotive
23 dismantler and parts recycler, licensed pursuant to
24 the Automotive Dismantlers and Parts Recycler Act, for

1 the collection and transportation of up to five used
2 tires per salvage vehicle purchased on or after
3 January 1, 1996.

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

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

23 4. a. Compensation to a unit of local or county government
24 that submits to the Department for approval a plan for

1 the use of baled used tires in an engineering project.
2 Compensation shall be at the rate of fifty cents
3 (\$0.50) per tire.

4 b. The plan shall be approved by the Department before
5 construction of the project begins.

6 c. Any unit of local or county government baling used
7 tires shall not accumulate more than fifty used tire
8 bales prior to beginning construction of an approved
9 project.

10 d. Used tires baled pursuant to this paragraph cannot be
11 obtained from tire manufacturers, retailers,
12 wholesalers, retreaders, or automotive dismantlers and
13 parts recyclers.

14 e. Any unit of local or county government authorized to
15 receive reimbursement for the use of baled used tires
16 in an engineering project shall report and certify
17 whole used tires by number. The governmental unit
18 shall by sworn affidavit provide sufficient
19 information to the Department to verify that the unit
20 has utilized the tires in accordance with the purposes
21 of the Oklahoma Used Tire Recycling Act; and

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

1 among the qualified applicants under this subsection according to
2 the percentage of used tires processed, collected and transported,
3 or utilized.

4 D. 1. After the allocations under subsections B and C of this
5 section are made, any remaining monies in the Fund shall be
6 available for TDF facilities and used tire recycling facilities that
7 produce crumb rubber for compensation at the rate of Twenty-nine
8 Dollars (\$29.00) per ton of processed or used tires utilized for
9 energy or fuel recovery or the production of crumb rubber.

10 2. The production of crumb rubber shall be considered a
11 compensable event separate from and in addition to any compensation
12 for used tire processing under subsection C of this section.

13 3. TDF facilities and used tire recycling facilities authorized
14 to receive reimbursement under this subsection shall report and
15 certify tire material used by weight.

16 4. The facilities shall by sworn affidavit provide to the
17 Department sufficient information to verify that the facility has
18 used the tires in accordance with the purposes of the Oklahoma Used
19 Tire Recycling Act.

20 5. If the Fund contains insufficient funds in any month to
21 satisfy the eligible reimbursements under this subsection, the
22 Department shall determine the apportionment of payments to be made
23 among the qualified applicants according to the percentage of used
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1 tires intended for energy or fuel recovery or the production of
2 crumb rubber.

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

15 2. If the Fund contains insufficient funds in any month to
16 satisfy the eligible reimbursements under this subsection, the
17 Department shall determine the apportionment of payments to be made
18 among the qualified applicants.

19 F. After the allocations under subsections B, C, D and E of
20 this section are made, any remaining monies in the Fund, excluding
21 monies collected pursuant to paragraphs 3 and 4 of subsection B of
22 Section 2-11-401.2 of this title, shall be disbursed as additional
23 compensation to used tire recycling facilities or TDF facilities for
24 the remediation of dumps certified by the Department and delivering

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

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

18 a. Collection, transportation and processing of tires
19 under this paragraph shall be considered a compensable
20 event separate from and in addition to any
21 compensation under subsection C of this section.

22 b. Used tire recycling facilities and TDF facilities
23 authorized to receive reimbursement under this
24

1 paragraph shall report and certify the number of tires
2 collected and transported.

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

10 a. Collection, transportation and processing of tires
11 under this paragraph shall be considered a compensable
12 event separate from and in addition to any
13 compensation under subsection C of this section.

14 b. Used tire recycling facilities and TDF facilities
15 authorized to receive reimbursement under this
16 paragraph shall report and certify the number of tires
17 collected and transported.

18 H. Used tire recycling facilities, TDF facilities, or persons,
19 corporations or other legal entities authorized by the provisions of
20 the Oklahoma Used Tire Recycling Act to receive reimbursement shall
21 demonstrate that the facilities or legal entities have successfully
22 complied with the requirements of the Oklahoma Used Tire Recycling
23 Act through the filing of appropriate applications, reports, and
24

1 other documentation that may be required by the Tax Commission and
2 the Department.

3 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-11-401.5,
4 as amended by Section 2, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
5 2016, Section 2-11-401.5), is amended to read as follows:

6 Section 2-11-401.5. To the extent that monies accruing to the
7 Used Tire Recycling Indemnity Fund exceed the monies needed for the
8 purposes previously specified in the Oklahoma Used Tire Recycling
9 Act, the Department of Environmental Quality may be reimbursed from
10 the remaining funds for necessary costs associated with remediation
11 ~~of~~ or other necessary actions at sites at which used tires or other
12 wastes ~~incidental to the used tires~~ present a threat to human health
13 or the environment, or for projects to increase market demand for
14 products made from Oklahoma used tires. The Solid Waste Management
15 Advisory Council shall recommend and the Environmental Quality Board
16 shall adopt rules governing the types of market development projects
17 that may qualify for reimbursement. To the extent possible, the
18 rules shall favor and the Department shall prioritize projects with
19 the greatest potential to benefit schools, communities and local
20 governments. Upon its receipt of documentation from the Department
21 showing expenditures relating to the remediation of such sites or
22 market development projects, the Tax Commission shall reimburse the
23 Department for its documented expenditures.

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1 SECTION 5. AMENDATORY 27A O.S. 2011, Section 2-11-401.7,
2 is amended to read as follows:

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

5 1. Own or operate a site used for the storage, collection or
6 disposal of more than fifty used tires except at a site or facility
7 permitted or approved by the Department of Environmental Quality to
8 accept used tires. The provisions of this paragraph shall not apply
9 to tire manufacturers, retailers, wholesalers and retreaders who
10 store a total of no more than two thousand five hundred ~~or fewer~~
11 (2,500) used tires at their place of business or ~~designated an~~
12 ancillary off-premises storage site approved by the Department;

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

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

19 4. Remove more than ten (10) used tires or reusable tires from
20 the possession of the dealer unless the dealer provides a manifest
21 form, approved by the Department, which documents the removal and
22 approved disposition or sale of the tires and which accompanies the
23 tires in transport. Dealers, haulers, and used tire recycling
24

1 facilities shall keep copies of manifests available for inspection
2 for five (5) years; or

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

6 B. The provisions of subsection A of this section shall not
7 apply to the use of used tires for agricultural purposes as
8 recognized by the Oklahoma Department of Agriculture, Food, and
9 Forestry.

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

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

21 E. 1. Except as otherwise ordered by the court, if the
22 administrative enforcement process for a violation of an order
23 issued by the Department for remediation, corrective action or
24 cleanup of an illegal tire dump has been exhausted, the Department

1 or a representative of the Department, upon notice to the landowner
2 and an opportunity for the landowner to be heard on the issue, may
3 enter the property to clean up the tire dump.

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
11 February 22, 2017 - DO PASS AS AMENDED
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