

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SUBCOMMITTEE
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 1374

7 By: Strohm

8 SUBCOMMITTEE RECOMMENDATION

9 An Act relating to environment and natural resources;
10 amending 27A O.S. 2011, Section 2-11-401.4, as
11 amended by Section 1, Chapter 287, O.S.L. 2014 (27A
12 O.S. Supp. 2014, Section 2-11-401.4), which relates
13 to the Oklahoma Used Tire Recycling Act; authorizing
14 the Department of Environmental Quality to utilize
15 certain funds for other environmental needs; and
16 providing an effective date.

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

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

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

1 from Oklahoma to an out-of-state used tire recycling facility or TDF
2 facility but shall not be eligible for compensation from the Used
3 Tire Recycling Indemnity Fund for those used tires. To be eligible,
4 applicants for compensation shall be in compliance with the Oklahoma
5 Used Tire Recycling Act.

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

23 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax
24 Commission and five and three-fourths percent (5.75%) to the

1 Department of Environmental Quality for the purpose of administering
2 the requirements of the Oklahoma Used Tire Recycling Act; and

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

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

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

15 a. facilities that process used tires by altering the
16 form of the used tires but do not produce crumb rubber
17 shall not receive compensation until the facility
18 documents the sale and movement of the processed used
19 tire material off-site to a third party,

20 b. facilities shall report and certify used tire
21 processing activity in terms of weight. The facility
22 shall by sworn affidavit provide to the Department
23 sufficient information to verify that the facility has
24 processed used tires and sold processed used tires for

1 actual recycling or reuse in accordance with the
2 purposes of the Oklahoma Used Tire Recycling Act, and
3 c. to be eligible for compensation, a facility shall not
4 have accumulated more processed material than the
5 amount for which the facility has provided financial
6 assurance under its solid waste permit or the amount
7 accumulated from three (3) years of operation,
8 whichever is less;

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

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

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

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

21 (1) demonstrate to the satisfaction of the Department
22 that the facility is regularly engaged in the
23 collection, transportation and delivery of used
24 tires to a used tire recycling facility or to a

1 TDF facility, on a statewide basis, and from each
2 county of the state,

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

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

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

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

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

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

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

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

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

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

23 (5) the applicant annually demonstrates that at least
24 three to six percent (3-6%) of the tires utilized

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

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 used
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 Department, signed by a dealer at the time of
20 collection, which certifies remittance of
21 appropriate fees to the Oklahoma Tax Commission
22 as a participating tire dealer pursuant to the
23 provisions of the Oklahoma Used Tire Recycling
24 Act.

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 used
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 Used Tire
12 Recycling Act and as authorized by the Department.
13 During the course of the erosion control project, the
14 Department may determine the amount of and authorize
15 partial compensation, as tires are utilized in
16 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 used tires in an engineering project.
7 Compensation shall be at the rate of fifty cents
8 (\$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 used
12 tires shall not accumulate more than fifty used tire
13 bales prior to beginning construction of an approved
14 project.
- 15 d. Used 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 used tires
21 in an engineering project shall report and certify
22 whole used tires by number. The governmental unit
23 shall by sworn affidavit provide sufficient
24 information to the Department to verify that the unit

1 has utilized the tires in accordance with the purposes
2 of the Oklahoma Used Tire Recycling Act; and

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 under this subsection according to
7 the percentage of used tires processed, collected and transported,
8 or utilized.

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

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

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

21 4. The facilities shall by sworn affidavit provide to the
22 Department sufficient information to verify that the facility has
23 used the tires in accordance with the purposes of the Oklahoma Used
24 Tire Recycling Act.

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

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

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

23 F. After the allocations under subsections B, C, D and E of
24 this section are made, any remaining monies in the Fund shall be

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

15 G. Used tire recycling facilities, TDF facilities, or persons,
16 corporations or other legal entities authorized by the provisions of
17 the Oklahoma Used Tire Recycling Act to receive reimbursement shall
18 demonstrate that the facilities or legal entities have successfully
19 complied with the requirements of the Oklahoma Used Tire Recycling
20 Act through the filing of appropriate applications, reports, and
21 other documentation that may be required by the Tax Commission and
22 the Department.

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SECTION 2. This act shall become effective November 1, 2015.

55-1-6769 AMM 02/11/15