

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1374

6 By: Strohm

7 COMMITTEE SUBSTITUTE

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

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

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

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

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.

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