

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY
AND ADMINISTRATIVE AUTHORITY**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 5. Waste Tire Recycling

710:95-5-3 [AMENDED]

710:95-5-11 [AMENDED]

710:95-5-13 [REVOKED]

710:95-5-14 [REVOKED]

710:95-5-15 [REVOKED]

710:95-5-16 [REVOKED]

710:95-5-17 [REVOKED]

710:95-5-18 [REVOKED]

710:95-5-19 [NEW]

710:95-5-20 [REVOKED]

710:95-5-21 [REVOKED]

710:95-5-22 [REVOKED]

SUMMARY:

Sections 710:95-5-13 through 710:95-5-18 and 710:95-5-20 through 710:95-5-22 pertaining to administration of the Waste Tire Recycling Indemnity Fund (which has been transferred from the Tax Commission to the DEQ pursuant to Senate Bill 747 [51st Legislature, 1st Regular Session]), are being revoked. Section 710:95-5-3 is amended to reduce the fee on a tire rim greater than 17½" but less than or equal to 19½" and Section 710:95-5-11 changes the due date for filing and remitting fees from the 15th of every month to the 20th. New Section 710:95-5-19 pertains to compliance and collection of waste tire fees.

AUTHORITY:

Oklahoma Tax Commission; 27A O.S. § 2-11-401.6, 68 O.S § 203

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 11, 2008, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 522-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: February 12, 2008, 9:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 522-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-522-5519; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

SUBCHAPTER 5. WASTE TIRE RECYCLING

710:95-5-3. ~~Applicability of the waste~~ Waste tire recycling fee

(a) **Applicability of the fee.** The fee levied by the Oklahoma Waste Tire Recycling Act is assessed in the following instances:

(1) All sales of tires for motor vehicles, whether used on or off road, except "implements of husbandry" as defined by Section 1-125 of Title 47 of the Oklahoma Statutes.

(2) All first registrations of motor vehicles required to be registered, except those registered under a proportional registration plan, as provided by 47 O.S. § 1120.

(b) **Amounts.** The amount of the fee due will be determined based upon the size of the tire rim or use of the tire, as follows:

(1) \$1.00 per tire, where the tire rim diameter is less than or equal to seventeen and one-half (17 ½") inches;

(2) ~~\$3.50~~ \$2.50 per tire, where the tire rim diameter is greater than seventeen and one-half (17 ½") inches; or but less than or equal to nineteen and one-half (19 ½") inches.

(3) ~~\$3.50~~ per tire, where the tire rim diameter if greater than nineteen and one-half (19 ½") inches.

(4) \$1.00 per tire, for tires to be used on motorcycles, minibikes, motor-driven cycles, or motorized bicycles.

(c) **Report.** The Commission shall provide a report, on a monthly basis, to the DEQ of the fees remitted by each tire dealer and motor license agent.

(d) **Payments.** Upon receipt of monthly reports from the DEQ, the Commission will issue payments from the Fund to qualified applicants.

710:95-5-11. Reporting and remitting

Tire sales must be reported and the fees remitted to the Oklahoma Tax Commission by the ~~15th~~ 20th of the month following the month in which the sales are made.

710:95-5-13. Procedure to be used by waste tire facilities and "TDF facilities" to request compensation for the collection and transportation of waste tires and either the processing and sale of processed waste tires or the use of the tires as fuel or for the manufacture of new products [REVOKED]

(a) ~~**General provisions.** In order to be compensated from the Waste Tire Recycling Indemnity Fund, a properly permitted waste tire facility must make application to the Commission, no more often than monthly, on forms prescribed for that purpose.~~

(b) ~~**Magnetic media requirements.** A magnetic media file, containing the information required to be filled in on the Waste Tire Reimbursement Manifest, must be submitted with the application.~~

(c) ~~**Required supporting documentation.** Until the Commission authorizes otherwise in writing, a data sheet must be submitted, to which are attached copies of manifests showing the information described in (1) through (3) of this subsection:~~

(1) ~~**Identification of tires.** The data sheet must state the date acquired, number, and size of tires;~~

(2) ~~**Sources of tires.** The name and the location of the source from which discarded tires were obtained, whether they were collected and transported by the waste tire facility or not, must be provided. Sources may include:~~

(A) ~~Tire dealers;~~

- (B) Persons making voluntary payments pursuant to 710:95-5-12;
- (C) Priority clean-up sites;
- (D) Community-wide clean-up events; or
- (E) Automotive dismantlers and parts recyclers.

~~(3) **Signature from source required.** The signature of the owner, manager, or the person responsible for the location where the tires were obtained, or the signature of the person who brought the tires to the facility, if they were not collected and transported by the facility, must be submitted on the manifest, data sheets, or on supporting documentation.~~

~~(d) **Accuracy of manifests and tire weights.** The manifests required by this Section must be complete and accurate in all details and must be accompanied by weight tickets from certified scales which show the poundage of the load collected and transported or accepted for processing by the waste tire facility.~~

~~(e) **Inaccurate, incomplete, or insufficient manifest.** The Commission shall not compensate waste tire facilities for tires which are processed where the manifests for those tires are incomplete, unreadable, not accompanied by a weight ticket, or in any other respect cannot be relied upon to show that the tires were collected, transported and processed pursuant to the Waste Tire Recycling Act.~~

~~(f) **Reimbursable processing of tires limited to those discarded in Oklahoma.** The compensation request shall also state that the processor making the request is in compliance with and has successfully processed vehicle tires which were discarded by the consumer in Oklahoma, not some other state.~~

~~(g) **Other required information.** Additional documentation or information may be required by the Commission.~~

~~(h) **Sworn signature required.** The application must be signed by an officer, owner, or partner of the processor, stating under penalty of perjury, that all the information contained in the request is true and correct.~~

710:95-5-14. Procedure to be used by businesses that utilize waste tires to request compensation [REVOKED]

~~(a) **Qualification.** Businesses that utilize waste tires shall be qualified to apply for compensation, not to exceed the total amount invested in capital equipment necessary to utilize processed waste tires, pursuant to this Section.~~

~~(b) **Limitations.** The following limitations shall apply to compensation paid pursuant to this Section:~~

~~(1) The compensation shall be payable each month for an amount equal to \$20.00 per ton of waste tires used.~~

~~(2) The total amount a business may receive in compensation is an amount not in excess of One-Hundred percent (100%) of its capital investment in equipment necessary to utilize waste tires, provided no compensation shall be payable for capital investment in equipment which was purchased before January 1, 1995.~~

~~(3) If the funds available for any month are not sufficient to fully pay all requests for compensation, the available funds will be awarded on a proportionate share of the funds available and based on the relative amount of tons of waste tires utilized.~~

~~(4) If the balance of the monies remaining which have been allocated for the purpose of compensating businesses that manufacture new products or which derive energy benefits from processed waste tires is insufficient to fully compensate all claimants for a particular month, they shall be compensated in the manner set out in (b)(3) of this Section and no further compensation shall be granted in the future for the processed waste tires on which~~

compensation was previously requested.

~~(c) **Application process.** All persons who believe that they do qualify or will qualify for compensation shall file an application/intent to request compensation with the Commission on forms to be provided by the Commission and shall include as attachments, specification of the operation that utilizes waste tires, a listing of the equipment and the capital investment therein which is necessary to utilize processed waste tires which they believe qualifies to be included in the amount on which compensation will be based, and copies of purchase invoices which show the cost of the equipment listed.~~

~~(d) **Review.** The application will be reviewed upon receipt for completeness and compliance with the requirements contained in 27A O.S. §2-11-401.4. An on-site review will be conducted by personnel of the Commission if it is deemed necessary to determine that the equipment is necessary to the utilization of processed waste tires. The applicant will be notified of any action taken in regard to the application, and if approved, will be given a list of the capital equipment and the costs which the Commission has determined to be eligible for compensation.~~

710:95-5-15. Review and determination of requests for compensation; protest procedure following denial of compensation request [REVOKED]

~~(a) **Review and determination of requests for compensation.** Upon receipt of a proper request for compensation, the Oklahoma Tax Commission shall review the request and determine whether the application reflects compliance with the statutory requirements of the Waste Tire Recycling Act and all applicable rules pertaining thereto promulgated by the DEQ, the Commission, and the ODH. Further, the Commission shall verify that the applicant is not in violation of any tax laws of the State of Oklahoma. The applicant shall be notified in writing of the Commission's determination, and the reasons therefore.~~

~~(b) **Protest procedure.** The following procedure shall apply when a request for compensation is denied by the Commission:~~

~~(1) Any applicant whose request for compensation is denied may, within thirty (30) days after the mailing of the denial by the Commission, file a protest under oath, signed by the applicant or a duly authorized agent, setting out:~~

~~(A) A statement of denial as determined by the Commission;~~

~~(B) A statement of the applicant's disagreement with such denial, and~~

~~(C) Supporting documentation relied on by the applicant in support of the request for compensation.~~

~~(2) The protest shall be filed with the Commission at its main offices at 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma.~~

~~(c) **Failure to timely protest.** If an applicant fails to file a written protest within the thirty (30) days, then the denial, without further action of the Commission, shall become final and no appeal will be entertained.~~

~~(d) **Determination of protest and appeal procedure.** The following practice and procedure shall apply to the hearing of a protest of the denial of a request for compensation and appeal therefrom:~~

~~(1) Applicants filing a protest to the denial of a request for compensation by the Commission shall be scheduled for a hearing before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing. The burden of proving that the denial was erroneous is on the applicant. The applicant can present testimony, evidence and argument in support of the requested compensation.~~

~~(2) The Commission will issue an order in each case. That order is directly appealable to the Oklahoma Supreme Court. An applicant aggrieved by the order of the Commission must file,~~

~~within ten (10) days of the mailing of the order, a notice of intent to appeal, with the Secretary of the Commission. The appeal must be perfected within thirty (30) days of the mailing of the order by simultaneously filing a petition in error with the Clerk of the Supreme Court of the State of Oklahoma, and a designation of the record with the Secretary of the Commission. [See: 68 O.S. § 225]~~

**710:95-5-16. Required procedures for monthly certification to the Commission by DEQ
[REVOKED]**

~~(a) Prior to approving compensation to any waste tire facility or to any entity using waste tires for erosion control, bank stabilization, or other approved conservation project, the Commission must receive monthly certification from the DEQ, certifying that the applicant for compensation meets the qualification criteria set out in this Section:~~

~~(1) If the applicant is a waste tire facility, it must have a valid permit as a solid waste disposal site, be in good standing, and be in compliance with the requirements of the permit, including the requirements set out in OAC 252:520-21-5:~~

~~(A) The facility's fire protection plan must be currently approved;~~

~~(B) The facility must maintain the fifty (50) foot fire lane around the perimeter of each tire pile and the shredder;~~

~~(C) The buffer zone must be maintained;~~

~~(D) Visual screening must be developed;~~

~~(E) Vector control must be effective, as shown by the latest mosquito monitoring reports received by the local office of the DEQ; and~~

~~(F) No water must have been discharged off the site without the consent of the owner of the sewer system, unless pursuant to a discharge permit issued by the DEQ.~~

~~(2) If the entity is requesting compensation for utilizing waste tires in erosion control, bank stabilization, or other approved conservation project:~~

~~(A) The entity must have obtained a permit or other authorization for the utilization of wastes tires for purposes of erosion control, bank stabilization, or other conservation project from either the United States Army Corps of Engineers or a local Conservation District, as the landowner, or on behalf of the landowner to provide these services on the property of the landowner.~~

~~(B) The entity must have been evaluated by the DEQ within the last three (3) years and must be certified as being authorized to receive reimbursement pursuant to 27A O.S. §2-11-407.1.~~

~~(C) The DEQ must not have received any information which would indicate that the entity has not successfully processed discarded vehicle tires of rim diameter greater than 17 ½ inches, in accordance with the written plan filed in connection with the permit or authorization described in (A) of this paragraph.~~

~~(b) The facility must, by the 10th of the following month, have submitted to the local office of the DEQ, the report required by OAC 252:520-21-6, giving the number of tires received.~~

~~(c) There must be no indication that the facility has exceeded the restrictions found in OAC 252:520-21-6, concerning volume, segregation, shape, and size of tire and processed material piles.~~

~~(d) The facility must have filed narrative descriptions of its development and operations, its intended use of processed materials, and a secondary plan of disposal, and such plans must have been approved by the DEQ.~~

~~(e) The DEQ must have no information which indicates that the facility has not successfully processed discarded vehicle tires pursuant to the Waste Tire Recycling Act.~~

~~(f) For compensation requests for collection and transportation, the applicant must satisfy DEQ that it is regularly engaged in the collection, transportation, and delivery of waste tires on a statewide~~

basis and from each county of the state.

(g) DEQ's review of facilities must establish:

- (1) That the applicant has not accumulated more processed material than the amount for which they have provided financial assurance under their solid waste permit or the amount accumulated from three years of operation, whichever is less; and
- (2) That the applicant has been evaluated within the last three years and has provided for, in addition to the processing of tires, the recycling, reuse or energy recovery from waste tires as these terms are defined in OAC 252:520-21-2.

710:95-5-17. Documentation to be provided to the Commission [REVOKED]

In order to facilitate the administration of the Waste Tire Recycling Act, the following documentation, along with any update which may occur, will be provided by the DEQ to the Commission:

- (1) A copy of any priority enforcement list or information on any authorized community-wide clean-up event;
- (2) A copy of the Statewide Collection Plan of each waste tire facility;
- (3) A copy of the narrative description of the processor's design, development, and operational plan; an example of the approved daily log; and a copy of the intended use and secondary plan of disposal narratives, as required by OAC 252:520-21-6 for each waste tire facility;
- (4) A copy of the waste tire processing facility permit;
- (5) A copy of any progress reports which must be filed by the facility;
- (6) A copy of any permit or other authorization from either the United States Army Corps of Engineers or a local Conservation District, approving a written plan for utilizing waste tires for the purpose of erosion control, bank stabilization, or other conservation project.
- (7) The Monthly Certification and Authorization to Compensate Waste Tire Facilities or Entities utilizing waste tires for erosion control, bank stabilization, or other conservation project.

710:95-5-18. Transfers between tire dealers using reimbursement manifest [REVOKED]

- (a) Transfers of waste tires between tire dealers using a reimbursement manifest will not require additional payment of waste tire fees by the transferee when they are sold, so long as the tires being transferred were generated as a result of a transaction on which the proper fee has been paid.
- (b) Use of the reimbursement manifest by the transferee conveys the right to have the number and type of waste tires shown on the form picked up by the waste tire facility from the transferee's locations.
- (c) The properly completed DEQ reimbursement manifest will be accepted by the Commission as evidence that the waste tire fees have been paid on the used tires which are sold by used tire dealers.

710:95-5-19. Compliance

Upon receipt of a determination from the DEQ that a tire dealer or motor license agent has demonstrated a flagrant or repeated disregard of Section 2-1-401.2 of Title 27A, the Tax Commission will commence proceedings to collect finally established waste tire fee liabilities in accordance with the recommendations of the DEQ. The Tax Commission will, in a timely manner, report the results of the proceedings to the DEQ.

710:95-5-20. Procedures to request compensation for use by entities which process and utilize waste tires in erosion control, bank stabilization or other conservation projects [REVOKED]

- (a) **General provisions.** To be eligible for reimbursement pursuant to 27A O.S. §2-11-

401.7(c)(3), the entity seeking reimbursement must give notice to the Commission and make application, no more often than monthly on forms, or in the format, prescribed for those purposes.

~~(b) — **Notice of intent to file compensation request.** The applicant must file a "Notice of Intent to File Waste Tire Indemnity Fund Compensation Request" to which is attached, a copy of the permit issued by the United States Army Corps of Engineers or a local Conservation District and the written agreement of the landowner in which the landowner agrees to plant trees or other vegetation in accordance with a planting plan developed in conjunction with the state Department of Agriculture, Food and Forestry.~~

~~(c) — **Contents of required affidavit.** The applicant must file an affidavit setting out:~~

~~(1) The number of tires having a rim diameter greater than 17 1/2" inches which were collected, transported and used in the approved project.~~

~~(2) The number of tires having a rim diameter of 17 1/2" inches or less which were collected, transported and used in the approved project.~~

~~(3) A sworn statement that five percent (5%) of the tires used in the project were collected from tire dumps or landfills listed on the "Priority Cleanup List" defined at 27A O.S. §2-11-401.1, or collected from community-wide cleanup events approved by DEQ.~~

~~(4) A sworn statement that collection and transportation of waste tires which were used in the project were collected on a statewide basis, from each county of the state, at no cost to the tire dealers.~~

~~(5) A statement that the tires for which reimbursement is being claimed have actually been used at the approved site in accordance with a written plan approved by the United States Army Corps of Engineers.~~

~~(6) A statement that the applicant is in compliance with the requirements promulgated by DEQ pursuant to the Oklahoma Environmental Quality Code regarding the storage, transportation and disposal of waste tires.~~

~~(7) A statement that the applicant is in compliance with all tax laws of the state of Oklahoma.~~

~~(8) A statement that the compensation shall be payable only for tires actually utilized in conformity with the purposes of the Oklahoma Waste Tire Recycling Act.~~

~~(9) The total amount of compensation requested.~~

~~(d) — **Supporting documentation.** Copies of complete, accurate, and legible Oklahoma Waste Tire Tracking Manifests showing the types, amounts, and source of the tires utilized, for which reimbursement is being requested, must accompany the affidavit.~~

~~(e) — **Other information may be required.** Additional documentation may be required by the Commission.~~

~~(f) — **Sworn signature required.** The affidavit required by (b) of this Section must be signed by an owner, officer, or partner of the processor, stating, under penalty of perjury, that all the information contained in the affidavit and request is true and correct.~~

~~(g) — **Compensation.** Compensation pursuant to this paragraph shall be payable only for the tires collected and utilized in accordance with the purposes of the Oklahoma Waste 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.~~

~~(h) — **Reimbursement.** 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 of the original contractor, the original contractor shall be responsible for cleanup costs and shall not be eligible for any additional compensation from the~~

Fund for costs related to that erosion control project.

710:95-5-21. Procedure to be used by units of local or county government to request compensation for tires that are baled and used in approved engineering projects [REVOKED]

~~(a) — **General provisions.** In order to be compensated from the Waste Tire Recycling Indemnity Fund, a unit of local or county government must make application to the Commission, no more often than monthly, on forms prescribed for that purpose. The application for compensation shall provide the information described in (1) through (7) of this subsection.~~

~~(1) — Number of tires covered by the application;~~

~~(2) — Total number of tires baled;~~

~~(3) — Total amount of compensation requested for processing, equal to the total number of tires baled times Fifty Cents (\$.50);~~

~~(4) — A description of the engineering project, a statement that the project has been approved by DEQ, and the location thereof; and,~~

~~(5) — A statement that none of the tires for which compensation is being requested has been obtained from manufacturers, retailers, wholesalers, retreaders, or parts dismantlers.~~

~~(b) — **Other required information.** Additional documentation or information may be required by the Commission.~~

~~(c) — **Sworn signature required.** The application must be signed by an employee of the government agency who has knowledge of the number of tires baled and of the approved engineering project, stating under penalty of perjury, that all the information contained in the application is true and correct.~~

710:95-5-22. Apportionment of funds among claimants [REVOKED]

~~(a) — **General provisions.** The apportionment of funds in the waste tire indemnity fund shall be made in the following manner:~~

~~(1) Four and one-half percent (4.5%) to the Oklahoma Tax Commission and three and one-half percent (3.5%) to the Department of Environmental Quality for the purpose of administering the requirements of the Oklahoma Waste Tire Recycling Act.~~

~~(2) Fifty Thousand Dollars (\$50,000.00) per audit to the State Auditor and Inspector for the purpose of conducting audits of the Oklahoma Waste Tire Recycling Program pursuant to Section 2-11-401.6 of Title 27A.~~

~~(3) Up to ten percent (10%) for capital investment reimbursement to waste tire facilities and TDF facilities for the purchase of equipment necessary to utilize waste tires. Only equipment purchased on or after January 1, 1995, shall be eligible. The facilities are eligible for compensation at a rate of Twenty Dollars (\$20.00) per ton of waste tires used. Total reimbursement shall not exceed one hundred percent (100%) of the capital investment in eligible equipment. The facilities may apply for compensation monthly to the Commission, and shall supply any information required by the Commission.~~

~~(4) After the allocations in the three paragraphs above are made, the balance of monies in the Fund shall be available for compensation pursuant to the provisions of the Oklahoma Waste Tire Recycling Act as follows:~~

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

~~(i) — facilities that process waste tires by altering the form of the waste tires but do not produce crumb rubber shall not receive compensation until the facility documents~~

~~the sale and movement of the processed tire material off-site to a third party;~~

~~(ii) facilities shall report and certify tire processing activity in terms of weight. The facility shall by sworn affidavit provide to the Commission sufficient information to verify that the facility has processed tires and sold processed tires for actual recycling or reuse in accordance with the purposes of the Oklahoma Waste Tire Recycling Act, and~~

~~(iii) 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;~~

~~(B) Compensation to waste tire facilities or TDF facilities at the rate of Fifty-three Dollars (\$53.00) per ton of whole waste tires for the collection and transportation of waste 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 waste tire facility or TDF facility. The collection and transportation of waste tires shall be provided by the waste tire facility or TDF facility at no additional cost to the tire dealer or automotive dismantler and parts recycler or to the Fund. The waste tire facility or TDF facility shall collect from any location at which there are at least three hundred waste tires.~~

~~(i) Compensation under paragraph B of subsection 4 shall not be payable until the waste tires have been actually processed according to the solid waste permit for the facility or actually used for energy or fuel recovery. A TDF facility that collects and transports whole waste tires shall be eligible for compensation under this paragraph only for those whole waste tires consumed by that facility.~~

~~(ii) No tire dealer shall charge any customer any additional fee for the management, recycling, or disposal of any waste tire upon which the waste tire recycling fee has been remitted to the Commission. For customers who choose not to leave a waste tire upon which the waste tire recycling fee has been remitted to the Commission, the tire dealer shall issue a receipt which entitles the customer to deliver the waste tire to the dealer at a later date.~~

~~(iii) To be eligible for compensation pursuant to paragraph B of subsection 4, the waste tire facility or TDF facility shall:~~

~~(I) demonstrate to the satisfaction of the Department that the facility is regularly engaged in the collection, transportation and delivery of waste tires to a waste tire facility or to a TDF facility, on a statewide basis, and from each county of the state;~~

~~(II) provide documentation to the Commission, signed by a dealer at the time of collection, which certifies by sworn affidavit the total amount of waste tire recycling fees, itemized by month, remitted by the dealer since the date the waste tires of the dealer were last collected, and~~

~~(III) annually demonstrate that at least five percent (5%) of the tires were collected from tire dumps or landfills on the Department priority cleanup list or community-wide cleanup events approved by the Department.~~

~~(iv) In lieu of proof of remitted tire recycling fees, the waste tire facility or TDF facility 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~~

waste tires per salvage vehicle purchased on or after January 1, 1996

~~(C) Compensation to a person, corporation or other legal entity who has obtained a permit or other authorization from the United States Army Corps of Engineers or a local Conservation District to provide services for erosion control projects. Compensation shall be at the rate of Two Dollars and eighty cents (\$2.80) per tire for waste tires having a tire rim diameter of greater than seventeen and one-half (17 1/2) inches, and eighty cents (\$0.80) per tire for tires having a rim diameter less than or equal to seventeen and one-half (17 1/2) inches. The application for reimbursement shall comply with the provisions of Section 710:95-2-20.~~

~~(D) Compensation to a unit of local or county government. The application for reimbursement from the fund shall be in accordance with the provisions of Section 710:95-2-21.~~

~~(5) If the Fund contains insufficient funds in any month to satisfy the eligible reimbursements under paragraph (4), the Commission shall apportion the payments among the qualified applicants under paragraph (4) according to the percentage of waste tires processed, collected and transported, or utilized.~~

~~(6) After the allocations under paragraph (4) are made, any remaining monies in the Fund shall be available for TDF facilities and waste tire facilities that produce crumb rubber for compensation at the rate of Twenty-nine Dollars (\$29.00) per ton of processed or whole waste tires used for energy or fuel recovery or the production of crumb rubber.~~

~~(A) The production of crumb rubber shall be considered a compensable event separate from and in addition to any compensation for waste tire processing under subsection C of this section.~~

~~(B) TDF facilities and waste tire facilities authorized to receive reimbursement under this subsection shall report and certify tire material used by weight.~~

~~(C) The facilities shall by sworn affidavit provide to the Commission sufficient information to verify that the facility has used the tires in accordance with the purposes of the Oklahoma Waste Tire Recycling Act.~~

~~(D) If the Fund contains insufficient funds in any month to satisfy the eligible reimbursements under this subsection, the Commission shall apportion the payments among the qualified applicants according to the percentage of waste tires used for energy or fuel recovery or the production of crumb rubber.~~

~~(7) After the allocations under paragraphs (3), (4) and (6) are made, any remaining monies in the Fund shall be disbursed as additional compensation to waste tire facilities or TDF facilities for the collection and transportation of waste 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 waste tire facility or a TDF facility. The Commission shall apportion the payments under this subsection among the qualified applicants according to the percentage of waste tires collected and transported.~~

~~(b) **Compliance with Oklahoma Waste Tire Recycling Act required.** Waste tire facilities, TDF facilities, or persons, corporations or other legal entities authorized by the provisions of the Oklahoma Waste Tire Recycling Act to receive reimbursement shall demonstrate that the facilities or legal entities have successfully complied with the requirements of the Oklahoma Waste Tire Recycling Act through the filing of appropriate applications, reports, and other documentation that may be required by the Commission and the Department. [68 O.S. 27A Sections 2-11-401.1 et seq.]~~

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 95 Miscellaneous Areas of Regulatory and Administrative Authority
Subchapter 5. Waste Tire Recycling
710:95-5-3 [AMENDED]
710:95-5-11 [AMENDED]
710:95-5-13 through 710:95-5-18 [REVOKED]

