



# DEPARTMENT OF ENVIRONMENTAL QUALITY WASTE TIRE FUND

## Operational Audit

For the period July 1, 2014 through December 31, 2018

**Cindy Byrd, CPA**  
State Auditor & Inspector

**Audit Report of the  
Department of Environmental Quality  
Waste Tire Fund**

**For the Period  
July 1, 2014 through December 31, 2018**

December 16, 2019

**TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY - WASTE TIRE FUND**

We present the audit report of the Department of Environmental Quality-Waste Tire Fund for the period July 1, 2014 through December 31, 2018. The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during our engagement.

This report is a public document pursuant to the Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.) and shall be open to any person for inspection and copying.

Sincerely,



CINDY BYRD, CPA  
OKLAHOMA STATE AUDITOR & INSPECTOR



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**Background**

The Oklahoma Department of Environmental Quality (DEQ, the Agency) was established by the Legislature in 1993 “to protect people through the air we breathe, the water we drink and the land on which we thrive.” Jointly, DEQ and the Oklahoma Tax Commission are responsible for the administration of the Used Tire Recycling Act. They are responsible for permitting and certifying used tire facilities, and for establishing rules that pertain to the remittance of fees and the allocation of monies accruing to the Used Tire Recycling Indemnity Fund.

Oversight is provided for DEQ overall by the thirteen-member Environmental Quality Board, appointed by the Governor and confirmed by the Senate for a five-year term. The Board is responsible for the appointment of DEQ’s executive director and the adoption of rules relating to the regulatory programs administered by the Agency, as well as rules pertaining to DEQ practice and procedure.

Board members as of November 2019 are:

James Kinder .....	Chair
Tracy Hammon .....	Vice-Chair
Alexandria Kindrick .....	Member
Billy G. Sims.....	Member
David Griesel.....	Member
Homer Nicholson.....	Member
Jan Kunze .....	Member
Kenneth Hirshey, Jr. ....	Member
Michel Paque .....	Member
Perry Barton.....	Member
Shannon Ferrell .....	Member
Steve Mason.....	Member
Tim W. Munson.....	Member

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Additional oversight is provided by a nine-member Solid Waste Management Advisory Council, which serves as the initial rule making body for the Land Protection Division. All solid waste rules and regulations must be approved by the Council before being recommended to the Environmental Quality Board.

Council members as of November 2019:

Jeff Shepherd .....	Chair
Brenda Merchant.....	Vice-Chair
Bill Torneten .....	Member
Ilda Hershey .....	Member
Jim Linn .....	Member
M. Todd Adcock.....	Member
Rodney L. Cleveland .....	Member
Thomas Lazarski .....	Member
Tracy Phillips.....	Member

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**Scope and  
Methodology**

Our audit was conducted in response to 27A O.S., § 2-11-401.6(C), which states in part, "the State Auditor and Inspector shall perform or shall contract with an auditor or auditing company to perform an independent audit, as defined in paragraph 4 of subsection B of Section 212 of Title 74 of the Oklahoma Statutes, of the books, records, files and other such documents of the Tax Commission and the Department pertaining to the administration of the Fund."

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessment of materiality and risk for the period July 1, 2014 through December 31, 2018. Detailed audit procedures focused on the period of July 1, 2016 through December 31, 2018, addressing the most current financial processes and providing the most relevant and timely recommendations for management, unless otherwise stated in the methodology.

Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Waste Tire Fund operations. Further details regarding our methodology are included under the related conclusion or in the appendix.

We utilized sampling of transactions to achieve our objectives. To ensure the samples were representative of the population and provided sufficient, appropriate evidence, the random sample methodology was used. We identified specific attributes for testing each of the samples and when appropriate, we projected our results to the population.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, errors or fraud may occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

**OBJECTIVE I** Determine whether the Agency's internal controls provide reasonable assurance that expenditures were accurately reported in the accounting records.

**Conclusion** The Agency's internal controls provide reasonable assurance that expenditures were accurately reported in the accounting records.

**Objective Methodology** To accomplish our objective, we performed the following:

- Evaluated the Agency's processes and identified significant internal controls related to expenditures and tested those controls as appropriate, which included:
  - Reviewing key checklists and disbursement memos for nine randomly selected months from the audit period (30% of the population) to ensure they were properly signature approved.
  - Reviewing a random sample of 15 expenditure claims from the audit period (5% or \$1,224,577 of the population of \$25,471,963) to determine whether the invoices were properly signature approved and supported by disbursement memos.

No findings were identified as a result of these procedures.

**OBJECTIVE II** Determine compliance with significant provisions of the Used Tire Recycling Act and the Oklahoma Administrative Code 252:215 Subchapter 21.

**Conclusion**

Financial operations complied with the following statutes:

- OK Administrative Code 252:515-21-3 - Regulating the tire dumps on the Priority Clean Up List.
- 27A O.S. § 2-11-401.4 -Regulating the allocation of monies in the Used Tire Recycling Indemnity Fund.
- 27A O.S. § 2-11-401.6(B)(7) - Requiring periodic tire dealer inspections throughout the state of Oklahoma.
- 27A O.S. § 2-11-401.4(C)(2)(d)(3) - Requiring that 3-6% of tires are collected from tire dumps or landfills on the Department priority cleanup list or community-wide cleanup events.

We identified opportunities for improvement related to 252:515-21-4(b), 252:515-21-36, and 252:515-21-51(b), detailed in the following section.

See details regarding our methodology in Appendix A.

**Opportunities for Improvement**

The following issues came to our attention during our audit procedures. While not posing a significant risk individually, they vary in their impact on compliance with Administrative Code and present an opportunity for overall improvement in Agency processes and documentation.

***Special Collection Efforts Documentation***

Under Administrative Code 252:515-21-4(b), tire dealers may request DEQ assistance when they have been unsuccessful in getting a tire processor to pick up used tires from their location. This section of Code requires that the tire dealer provide DEQ:

- the location of the used tires,
- certification that at least 300 used tires are at the location, and
- documentation that all used tire facilities have been contacted a minimum of twice, at least 60 days apart, and service has not been received.

We reviewed the Agency’s internal Special Collection Efforts spreadsheet that is used to document the tire dealers’ information. A total of 47 tire dealers requested tire pick-up assistance during the audit period. We found the Agency



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only documented the location of eight of those tire dealers, and provided special collection efforts to 18 tire dealers who had fewer than 300 tires at their location. Further, the Agency accepts verbal confirmation of the dealer's attempts to contact a tire facility for pick-up and documentation of these verbal conversations is not retained. Activity in this program increased during 2018, increasing the need for formalization in recordkeeping or updating of the requirements.

***Timeliness of Required Report Submission***

Administrative Code 252:515-21-36 requires reports be submitted in a certain timeframe by the processors in order to receive compensation from the Tire Waste Fund. Because the Agency does not track or document when the reports are received, it is unclear whether the monthly reports were submitted by the 10<sup>th</sup> day of each month, quarterly reports were submitted no later than the 10<sup>th</sup> day following each calendar quarter, or annual reports were submitted no later than the 10<sup>th</sup> day of January each year.

***Annual Scale Certifications***

Administrative Codes 252:515-21-36 and 252:515-21-51(b) require that processors have their scales tested and certified annually, specifically by the Oklahoma Department of Agriculture, Food and Forestry (ODAFF). We reviewed 100% of scale certifications submitted to the Agency for calendar years 2016-2018 and found five instances in which ODAFF did not complete a processor's annual scale certification.

In order to help ensure scales are accurate, the Agency allows the company that owns the scales to complete the scale certification when ODAFF is unable to. The Agency provided us substitute scale certifications from those companies for 4 out of the 5 missing certifications. This left only one processor that did not receive a scale certification in 2016.

***Processed Tires "Not in Ready-to-Use Condition"***

Administrative Code 252:515-21-36 also requires processors to report their monthly number of processed tires that were not in ready-to-use condition. The Agency does not require processors to submit this report as they do not believe it is applicable to the processors or program. DEQ Management plans to address this issue with their legislative liaison and request the requirement be removed from Administrative Code.

### **Recommendation**

We recommend the following to assist management in complying with Oklahoma Administrative Code and improving related procedures and documentation:

- Ensure the tire facilities are aware of the rules and are scheduled annually to receive a scale inspection by ODAFF, coordinating as needed with that agency to ensure the inspections are possible or alternative measures can be taken.
- Consult with legal counsel regarding:
  - Potential changes to the Oklahoma Administrative Code for cases in which the rules do not reflect what is necessary or realistic for the Agency's waste tire operations. Until such changes can occur, the Agency should formalize and document the processes required in Administrative Codes, such as obtaining the location of tire dealers before assistance is provided and tracking when reports are received from the tire facilities.
  - Clarification on the purpose of the required reporting by facilities on "tires that were not in ready-to-use condition report."

### **Views of Responsible Officials**

#### ***Special Collection Efforts Documentation***

The Program maintains a spreadsheet containing tire dealers who have called to request assistance in getting their tires picked up by a permitted facility. Not all tire dealers have 300 tires or have met the criteria for a special collection. The Program will attempt to facilitate a pick up but not necessarily require a special collection by the permitted facility. The Program maintains an information handout regarding special collections. In addition to the handout, the Program will begin requiring documentation from tire dealers that reflects their attempts to contact a permitted facility. Documentation will be maintained for those tire dealers who meet the criteria for a special collection. The regulations do not preclude the Program from providing assistance to tire dealers who have difficulty getting their tires picked up but do not meet the requirements for a special collection. The Program will continue to provide assistance in this situation.

#### ***Timeliness of Required Report Submission***

Pursuant to OAC 252:515-21-36, permitted facilities are required to submit monthly, quarterly, and annual reports no later than the 10th of each month. The Program will time and date stamp reports as they are received by the

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Department. Additionally, the Program will check the postage date to ensure the reports were mailed by the 10th of each month.

***Annual Scale Certifications***

Pursuant to OAC 252:515-21-36, permitted facilities are required to submit annual scale certifications no later than the 10th of January. The Program will provide outreach to the facilities to ensure they are aware of the requirement and have scheduled an annual scale inspection with ODAFF. In the event ODAFF does not conduct an annual inspection of the facility's scale, the Program will require the facility to provide certification documentation from the scale company that maintains their scale.

***Processed Tires "Not in Ready-To-Use Condition"***

Pursuant to OAC 252:515-21-36, permitted facilities are required to report monthly the number of processed tires not in ready-to-use condition. The Program will obtain clarification on what "not in ready to use condition" means and assess whether the language needs to be removed from the regulations.

***Consult with Legal Counsel***

The Program will assess potential changes to sections of OAC 252:515 that are no longer necessary or consistent with the Used tire Recycling Act (Act). DEQ will formalize and document the processes required in OAC 252:515 as recommended by the audit report. The Program will research the intent of the language "not in ready to use condition." The Program will conduct rule making if necessary, to ensure the regulation is consistent with the Act.

## APPENDIX A: Objective II Methodology

To accomplish our objective, we performed the following:

- Evaluated the Agency's processes relating to documenting and tracking unauthorized tire dumps as required by Administrative Code 252:515-21-3, which included the following testwork:
  - Reviewed a random sample of 11 tire dumps (31% of the population of 36 tire dumps between July 1, 2016 and December 31, 2018) to determine the required information was properly documented on the Tire Dump Survey and the tires on the survey did not exceed the number of tires on the Priority Clean Up List.
- Evaluated the Agency's process for documenting dealers' information prior to providing assistance in special used tire collection efforts.
  - Reviewing 47 dealers requesting assistance (100% of the population for the full audit period) to determine if the dealer's location was recorded, they certified to at least 300 tires being present, and they had attempted to contact a facility prior to the Agency providing assistance as required by Administrative Code 252:515-21-4(b).
- Evaluated the audit procedures related to the allocation of the tire waste funds as required by statute 27A O.S. § 2-11-401.4. We reviewed the Oklahoma Tax Commission apportionment testwork for 2018 that was performed by the Office of the State Auditor and Inspectors Office, Single Audit Division.
- Evaluated the Agency's internal spreadsheet and supporting documentation to ensure that 3-6% of tires were collected from tire dumps or landfills on the department priority cleanup list or community-wide cleanup events that is required by Administrative Code 27A O.S. § 2-11-401.4(C)(2)(d)(3).
- Evaluated the Agency's processes for performing periodic inspections of tire dealers throughout the state to ensure they follow Administrative Code 27A O.S. § 2-11-401.6(B)(7).
  - Reviewing the inspection forms for 15 randomly selected inspections and 5 additional inspections judgmentally selected to reflect instances of noncompliance (20 forms, or 8% of the population of 260 for the period July 1, 2016 through December 31, 2018), to ensure they were approved by a specialist and that if the tire dealer was not in

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compliance, the reason was given in writing on the inspection form.

- Evaluated the Agency's processes for receiving monthly, quarterly and annual reports that are required to be sent in by processors in order to receive reimbursement from the Waste Tire Fund.
  - Reviewing monthly reports for nine randomly selected months (30% of months from July 2016 through December 2018) to ensure the reports contained the information required by Administrative Code 252:515-21-36 and 252:515-21-51(b).
  - Reviewing quarterly reports that fell within our random sample of months (50% of the population of quarters between July 1, 2016 and December 31, 2018) to ensure the reports documented the statewide collection efforts for each facility.
  - Reviewing 100% of the scale certifications to ensure the facilities' scales had been certified for calendar years 2016, 2017, and 2018 as required by Administrative Code sections 252:515-21-36 and 252:515-21-51(b).

**Note:** In several cases during these procedures we were reviewing activity related to special waste tire programs tracked by DEQ staff. Because there was no independent source of documentation to validate the completeness of the Agency's listings, we relied on management's representation of the population for these procedures. We made efforts to assess the reasonableness of each population. This includes the Priority Clean-Up List, the Used Tire Special Collection Efforts list, and the Tire Dealer Inspections List.

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