

OKLAHOMA WASTE TIRE RECYCLING INDEMNITY FUND

JULY 1, 2003 THROUGH
JUNE 30, 2007

OPERATIONAL AUDIT



Jeff A. McMahan

Oklahoma State Auditor
& Inspector

**Audit Report of the
Oklahoma Waste Tire Recycling Indemnity Fund**

**For the Period
July 1, 2003 through June 30, 2007**



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

April 24, 2008

**TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
ENVIRONMENTAL QUALITY AND THE ADMINISTRATOR
OF THE OKLAHOMA TAX COMMISSION**

Pursuant to 27A O.S. § 2-11-401.6.C, transmitted herewith is the audit report for the Waste Tire Recycling Indemnity Fund for the period July 1, 2003 through June 30, 2007. The Office of the State Auditor and Inspector is committed to serving the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to ensure a government that is accountable to the people of the State of Oklahoma.

We wish to take this opportunity to express our appreciation to the agencies' staffs for the assistance and cooperation extended to our office during the course of our engagement.

Sincerely,

A handwritten signature in blue ink that reads "Michelle R. Day".

Michelle R. Day, Esq.
Deputy State Auditor and Inspector



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

**TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
ENVIRONMENTAL QUALITY AND THE ADMINISTRATOR
OF THE OKLAHOMA TAX COMMISSION**

We have audited the Waste Tire Recycling Indemnity Fund for the period July 1, 2003 through June 30, 2007. The objectives of this audit were to determine if:

- The Commission's internal controls provide reasonable assurance that revenues and expenditures were accurately processed in accordance with applicable provisions of the Waste Tire Recycling Act;
- The Commission and the Department complied with significant provisions of the Waste Tire Recycling Act, Oklahoma Administrative Code (OAC) 710:95 Subchapter 5, and OAC 252:515 Subchapter 21;
- Recommendations included in prior engagements were implemented.

As part of our audit, we obtained an understanding of internal controls significant to the audit objectives and considered whether the specific controls have been properly designed and placed in operation. We also performed tests of certain controls to obtain evidence regarding the effectiveness of the design and operation of the controls. However, providing an opinion on internal controls was not an objective of our audit and accordingly, we do not express such an opinion.

We also obtained an understanding of the laws and regulations significant to the audit objectives and assessed the risk that illegal acts, including fraud, violation of contracts, grant agreements, or other legal provisions could occur. Based on this risk assessment, we designed and performed procedures to provide reasonable assurance of detecting significant instances of noncompliance with the laws and regulations. However, providing an opinion on compliance with these laws and regulations was not an objective of our audit and accordingly, we do not express such an opinion.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances.

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.

A handwritten signature in blue ink that reads "Michelle R. Day".

Michelle R. Day, Esq.
Deputy State Auditor and Inspector

April 18, 2008

Audit Summary

Objective 1 - Determine whether the Oklahoma Tax Commission's internal controls provide reasonable assurance that revenues and expenditures are accurately processed in accordance with applicable provisions of the Waste Tire Recycling Act.

Controls appear to provide reasonable assurance that revenues and expenditures are accurately processed in accordance with applicable provisions of the Waste Tire Recycling Act. – page 8

Objective 2 - Determine compliance with significant provisions of the Waste Tire Recycling Act, Oklahoma Administrative Code 252:515 Subchapter 21 and Oklahoma Administrative Code 710:95 Subchapter 5.

OAC 252:515-21-3. Priority Cleanup List (PCL)

- The published PCL does not appear to be prioritized; rather, it is sorted by county;
- The PCL does not appear to provide an accurate representation of the number of illegal tire dumps and community-wide events and the number of waste tires at those locations;
- 70% of the illegal tire dumps on the PCL appear to be one year or older;
- 53% of the tires collected from the period July 1, 2005 to June 30, 2007 as part of the PCL requirement appears to have been obtained from community-wide events;
- The Department of Environmental Quality (DEQ) relies on the waste tire processing facilities to notify them when more than the authorized number of tires has been collected from an illegal tire dump or community-wide event.

Recommendations include (pages 11-14):

- The DEQ establishing written procedures to prioritize illegal tire dumps to allow tires to be removed more timely;
- The DEQ working with the Legislature to amend state statutes to address how the prioritization should be used to collect the tires and provide the DEQ the authorization to enforce this requirement;
- The DEQ implementing procedures, which could include updating the Facilities Management System (FMS) database to ensure the PCL is an accurate representation of the number of authorized tires at illegal tire dumps and community-wide events, as well as implementing procedures to detect when facilities have requested compensation from the Fund for more tires than have been authorized.

Objective 3 - Determine the extent to which recommendations included in the prior engagement were implemented.

System of accountability

- Statutory modifications requiring the DEQ, rather than the Oklahoma Tax Commission (OTC), to review requests for compensation, appear to have improved the system of accountability.

Exercising authority

- The DEQ appears to be exercising its authority to investigate any suspected noncompliance with the Waste Tire Recycling Act and imposing enforcement actions when needed.

Written procedures for monitoring of illegal tire dumps

- The DEQ established formal written procedures for periodically surveying illegal tire dumps; however, the actual procedures performed do not correspond with the written procedures.

- The Facility Management System (FMS) database used for tracking the number of illegal tire dumps and community-wide events, as well as the authorized number of tires, appears to be inaccurate.

Recommendations include (page 15):

- We recommend the DEQ comply with their written procedures for periodically surveying illegal tire dumps, or revise the procedures to reflect the actual procedures being performed.
- The DEQ's staff be trained in how to report the original authorization amount, re-evaluation site visit amounts and reauthorization amounts into the FMS database to ensure information is being entered in a consistent manner by all employees, allowing for proper reporting of number of tires on the PCL.
- The DEQ consider updating the FMS database to allow current and accurate reflection of the number of tires authorized for and remaining at a site.

Background

The Oklahoma Waste Tire Recycling Indemnity Fund (the Fund) was created in 1989 to clean up historical tire dumps and to prevent further illegal dumping by providing a monetary incentive to promote proper disposal. The Department of Environmental Quality (DEQ) and the Oklahoma Tax Commission (OTC) are jointly responsible for the administration of the Waste Tire Recycling Act. The DEQ is responsible for permitting and certifying waste tire facilities. The OTC is responsible for establishing and publicizing rules that pertain to the remittance of fees and the allocation of monies accruing in the Waste Tire Recycling Indemnity Fund. According to a presentation to the Oklahoma Waste Tire Task Force by the DEQ's executive director on September 27, 2007, approximately 4.6 million tires have been removed from illegal tire dumps since 1990, with approximately 350,000 tires still remaining.

How has the program changed since June 30, 2003?

One payment from the fund was removed:

- Effective July 1, 2005, the statute allowing up to \$1,000,000 for reimbursement from the fund for playground resurfacing materials when the funds accruing to the fund reached \$3,000,000 was repealed.

One payment was added while rates for other payments were increased:

- Increased reimbursement rate for collection and transportation from \$48 to \$53;
- Increased reimbursement rate for processing from \$49 to \$54;
 - Effective July 1, 2005, the definition of processing for reimbursement purposes was redefined to require facilities to alter the form of the tire. Previously, processing included sorting and/or washing tires.
- Effective July 1, 2005, facilities that produce crumb rubber became eligible to receive reimbursement at \$29 per ton.

How is the program funded?

When a citizen purchases new tires or registers a new vehicle with the state, he/she is required to pay a waste tire recycling fee based upon the tire's diameter. The fee schedule is:

- Rim diameter less than or equal to 17.5 inches - \$1.00 per tire;
- Rim diameter greater than 17.5 inches - \$3.50 per tire.

Tire dealers retain 2.25% of the fees paid at time of purchase and the tag agents retain \$1.00 for each vehicle registered. The remaining monies are paid to the OTC for deposit into the Fund.

What are these program funds spent on?

A portion of the waste tire fees received is allocated to the DEQ and the OTC for administering the program, and to the State Auditor and Inspector's Office for audit costs. The remaining monies are available to be paid to waste tire facilities, tire-derived fuel (TDF) facilities, and for use in erosion control and engineering projects.

What do these facilities receive reimbursement for?

State statute allows facilities to receive reimbursement from the Fund for the following activities:

- Purchasing equipment necessary to utilize waste tires (capital investment);
- Collecting and transporting waste tires;
- Processing (altering the form of whole waste tires by shredding, chipping, or other means approved by the DEQ, except baling)¹;
- Using waste tires in erosion control projects;
- Using baled waste tires in engineering projects;

¹ Baling is defined as the compressing of whole tires into blocks of tires.

- Using processed or whole waste tires as tire-derived fuel (TDF);
- Producing crumb rubber².

Under the current reimbursement schedule, a single tire could be reimbursed up to three times:

1. Collecting and transporting;
2. Processing;
3. Using shredded/chipped or other processed tires as TDF or producing crumb rubber.³

How do the facilities receive reimbursement from the Fund?

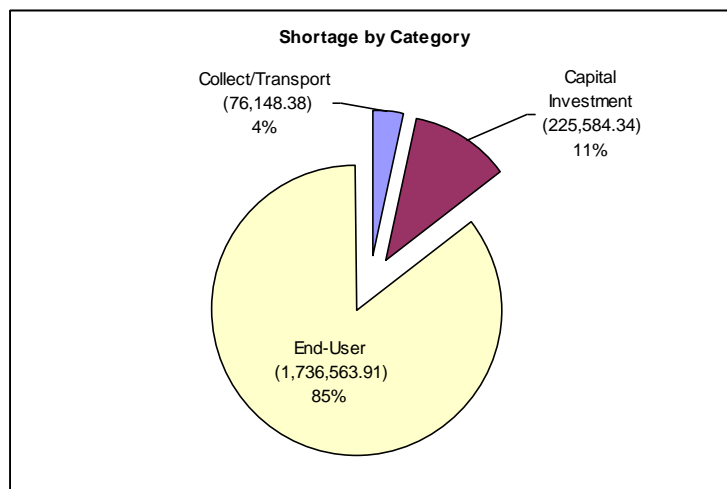
Each month, facilities seeking compensation from the Fund must submit a request and supporting documentation to the OTC⁴. Facilities can be reimbursed per ton for tires collected/transported, processed, and utilized or per tire based on the rim diameter for erosion and engineering projects.

What if the Fund's cash is not sufficient to pay all of the requests?

If the Fund does not have enough monies available to pay all the requests for compensation, state statutes require the payment to be apportioned to the facilities requesting reimbursement for collection/transportation, processing, or erosion control projects first. The remaining monies, if any, are then apportioned to the facilities producing crumb rubber or tire-derived fuel facilities (end-users). The amount to be paid is based on each facility's percentage of waste tires processed, collected/transported, or utilized to the total.

Which requests for compensation, if any, are not being fully paid by the Fund?

Using the "Request for Compensation from the Waste Tire Recycling Indemnity Fund" forms submitted during the period of July 1, 2005 to June 30, 2007, we performed an analysis to determine which payments were pro-rated the most often. We divided payments into three categories: 1) collection/transportation and processing (this will also include payments made for erosion control projects), 2) capital investment – 10% allocation for equipment reimbursement, and 3) end-user – reimbursement for facilities who use tires for energy/fuel recovery or produce crumb rubber. This period was selected because the change in the definition of "processing" became effective July 1, 2005, decreasing the amount requested for processing and increasing the amount available for other payment types. As a result, we determined this time frame would provide a more realistic view of the effect of the shortage. The chart below illustrates how the Fund shortfall affected each payment category:



From this analysis, it appears the categories bearing the majority of the Fund shortage are the capital investment and the end-user requests:

² Crumb rubber is the result of removing the steel from waste tires and reducing the rubber to a granular consistency.

³ As of July 1, 2005, the facility must document the sale and movement of the processed tire material off-site to a third party.

⁴ As of July 1, 2007, requests for compensation are submitted to the DEQ.

- The capital investment pro-rated amounts are due to statutory requirements which earmark only 10% of the monies deposited into the Fund for these costs.
- The end-users shortage does appear to be due to lack of available monies in the Fund. However, it should be noted the facilities who produce crumb rubber and request reimbursement under the end-user rate have received reimbursement from the Fund for processing these same tires at a rate of \$54 per ton. In addition, the facilities producing crumb rubber sell this product⁵.

How does the program provide for the cleanup of illegal tire dumps?

State statutes require that facilities who collect and transport waste tires must document a certain percentage of these tires were collected from illegal tire dumps and/or community-wide events. This information is documented on the request for compensation form and the waste tire manifest summary report. Facilities requesting compensation for erosion control projects must also document a certain percentage of the tires used were collected from illegal tire dumps and/or community-wide events. This requirement must be met before compensation will be authorized.

What is the requirement for collection from illegal tire dumps?

From November 1, 2001 to May 3, 2004, the applicant had to demonstrate **over the life of the facility at least 10%** (emphasis added) of the tires processed were collected from the illegal tire dumps and/or community-wide events.

From May 3, 2004 to July 1, 2005, the applicant had to demonstrate **over the life of the facility at least 5%** (emphasis added) of the tires processed were collected from illegal tire dumps and/or community-wide events.

From July 1, 2005 to July 1, 2007, the applicant had to **annually demonstrate that at least five percent (5%)** (emphasis added) of the tires were collected from tire dumps or landfills on the DEQ priority cleanup list or community-wide cleanup events approved by the DEQ.

What has been the activity in the Fund since inception?

Table 1 summarizes the Fund's revenue and expenditures for fiscal years 1990 to 2007.

Fiscal Year	Beginning Cash Balance	Fee and Interest Deposits	Claims Paid	Legislative Cash Transfers	Ending Cash Balance
1990	-	1,351,210	62,622	-	1,288,588
1991	1,288,588	1,683,723	1,675,925	-	1,296,386
1992	1,296,386	1,911,853	3,191,559	-	16,680
1993	16,680	1,801,276	1,673,265	-	144,691
1994	144,691	1,832,882	1,977,573	-	-
1995	-	1,957,562	1,735,641	-	221,921
1996	221,921	2,971,102	2,061,099	-	1,131,924
1997	1,131,924	4,261,270	2,384,298	-	3,008,896
1998	3,008,896	4,464,473	3,029,999	-	4,443,370
1999	4,443,370	4,557,407	4,273,195	4,300,000	427,582
2000	427,582	4,543,481	3,314,492	300,000	1,356,570
2001	1,356,570	4,509,102	3,235,683	-	2,629,989
2002	2,629,989	3,982,544	5,457,018	-	1,155,515
2003	1,155,515	4,579,942	5,731,505	-	3,952

⁵ Invoices reviewed for one facility indicate crumb rubber was sold for \$300 to \$400 per ton, while steel extracted from the tires was sold at \$165 per ton.

Table 1- Revenue and Expenditures for FY 1990 to FY 2007 - continued

Fiscal Year	Beginning Cash Balance	Fee and Interest Deposits	Claims Paid	Legislative Cash Transfers	Ending Cash Balance
2004	3,952	4,815,344	4,818,598	-	698
2005	698	4,664,488	4,618,942	-	46,244
2006	46,244	4,819,163	4,811,220	-	54,187
2007	54,187	5,165,534	5,169,721	-	50,000

Source: Oklahoma Tax Commission

Key Personnel

Department of Environmental Quality

Steven A. Thompson, Executive Director

Ferrella March, Environmental Programs Manager

Oklahoma Tax Commission

Russell Hulin, Comptroller

Gladys Van Ranken, Auditor

Dolores Flowers, Accountant

Objective 1 – Determine whether the Commission’s internal controls provide reasonable assurance that revenues and expenditures were accurately processed in accordance with applicable provisions of the Waste Tire Recycling Act.

Conclusion

The OTC’s internal controls related to revenues and expenditures appear to be effective to ensure they are accurately processed in accordance with applicable provisions of the Waste Tire Recycling Act.

Methodology

To accomplish our objective, we performed the following:

- Reviewed 27A O.S. § 2-11-101 through 2-11-307;
- Documented internal controls related to the revenue and expenditure process;
- Tested controls which included:
 - Reviewing a total of 12 months of payments to ensure review of the request for compensation was performed before payment was issued;
 - Reviewing OTC financial statement audit working papers prepared by the State Auditor and Inspector’s Office for the period of July 1, 2003 to June 30, 2005 to ensure payments were properly authorized;
 - Reviewing 83 payments for the period of July 1, 2005 to June 30, 2007 to ensure payments were properly authorized;
 - Reviewing OTC financial statement audit working papers for the period of July 1, 2003 to June 30, 2005 to ensure the preparer and reviewer of the Fund’s reconciliations were independent of each other and the reconciling items were adequately supported;
 - Reviewing 6 months of the Fund’s reconciliations for the period of July 1, 2005 to June 30, 2007 to ensure the preparer and reviewer were independent of each other and the reconciling items were adequately supported;
 - Reviewing OTC financial statement audit working papers to ensure waste tire funds were apportioned in accordance with state statutes.

Objective 2 – Determine if the Commission and Department are in compliance with

- 27A O.S. § 2-11-401.4.B – **allocation of monies accruing annually to the Fund;**
- 27A O.S. 2-11-401.4.B.3 – **10% of monies accruing annually to the fund are to be allocated for capital investment;**
- 27A O.S. § 2-11-401.4.C.1 – **compensation for waste tire processing;**
- 27A O.S. § 2-11-401.4.C.2.a – **compensation for collection and transportation;**
- 27A O.S. § 2-11-401.4.C.2.d(3) – **collection of tires from the Department priority cleanup list or community-wide cleanup events;**
- 27A O.S. § 2-11-401.4.C.3.a – **compensation for erosion control projects;**
- 27A O.S. § 2-11-401.4.D.1 – **compensation for tires used for energy or fuel recovery or the production of crumb rubber;**
- OAC 252:515-21-3 – **Priority cleanup list;**
- OAC 252:515-21-32(h) - **Facility operation requirements – weighing processed materials;**

- OAC 710:95-5-13(c) – **Procedures to request compensation for collection, transportation, processing, sale of processed waste tires, or use of the tires as fuel or for the manufacturing of new products – required supporting documentation;**
- OAC 710:95-5-13(d) – **Procedures to request compensation for collection, transportation, processing, sale of processed waste tires, or use of the tires as fuel or for the manufacturing of new products – accuracy of manifests and tire weights;**
- OAC 710:95-5-13(h) – **Procedures to request compensation for collection, transportation, processing, sale of processed waste tires, or use of the tires as fuel or for the manufacturing of new products – sworn signature required;**
- OAC 710:95-5-20(c) – **Procedures to request compensation for use of tires in erosion control, bank stabilization, or other conservation projects – contents of required affidavit;**
- OAC 710:95-5-20(d) – **Procedures to request compensation for use of tires in erosion control, bank stabilization, or other conservation projects – supporting documentation;**
- OAC 710:95-5-20(f) – **Procedures to request compensation for use of tires in erosion control, bank stabilization, or other conservation projects – sworn signature required.**

See Appendix A of this report to review the text of the state statutes and OAC identified.

Conclusion

It appears the OTC and the DEQ are in compliance with:

- | | |
|-----------------------------------|---------------------------------|
| • 27A O.S. § 2-11-401.4.B; | • 27A O.S. § 2-11-401.4.D.1; |
| • 27A O.S. 2-11-401.4.B.3; | • OAC 252:515-21-3; |
| • 27A O.S. § 2-11-401.4.C.1; | • OAC 252:515-21-32(h); |
| • 27A O.S. § 2-11-401.4.C.2.a; | • OAC 710:95-5-13(c), (d), (h); |
| • 27A O.S. § 2-11-401.4.C.2.d(3); | • OAC 710:95-5-20(c), (d), (f) |
| • 27A O.S. § 2-11-401.4.C.3.a; | |

However, the DEQ does not appear to be in compliance with OAC 252:515-21-3(a) – Priority cleanup list - Investigation and prioritization, 252:515-21-3(b) – Priority cleanup list - priority listing, and 252:515-21-3(d) – Priority cleanup list - Number authorized for compensation.

Methodology

To accomplish our objective, we performed the following:

- Reviewed 27A O.S. § 2-11-401.4.B and the OTC financial audit working papers to ensure waste tire fees were apportioned in accordance with the statute;
- Reviewed 27A O.S. 2-11-401.4B.3, 27A O.S. § 2-11-401.4.C.1, 27A O.S. § 2-11-401.4.C.2.a, 27A O.S. § 2-11-401.4.C.3.a, 27A O.S. § 2-11-401.4.D.1 to determine the amounts to be paid for services from the Fund. We reviewed all payments for three months from each fiscal year in the audit period and verified the following information to ensure amounts paid from the Fund were in accordance with the statutes:
 1. The total of all payments was traced and agreed to the amount deposited into the Fund to ensure all funds were expended and the 10% calculation for capital investments was accurate;
 2. The tons reported and the reimbursement amount requested on the OTC’s payment schedule was traced and agreed to the reimbursement manifests submitted;
 3. The amount on the “Request for Compensation” forms was recalculated to ensure it was mathematically accurate;
 4. The compensation ratio was recalculated when the amount paid to the processors was pro-rated;
 5. The actual amount paid was recalculated to ensure it was mathematically accurate;

6. The amount paid on OTC's payment schedule was traced to Office of State Finance expenditure records to ensure it agreed with the actual amount paid;
 7. The "Reimbursement Manifest" and supporting documentation were examined to ensure they had been reviewed by OTC's auditor.
- Reviewed 27A O.S. 2-11-401.4.C.2.d(3) and performed procedures to determine the facility had met the PCL (Priority Cleanup List) requirement before reimbursement was made in accordance with the statute;
 - Reviewed OAC 252:515-21-3 and performed the following procedures to ensure a Priority Cleanup list (PCL) was being maintained and procedures were in place to ensure the total number of waste tires compensated from the Fund for a location did not exceed the authorized amount:
 1. Discussed with DEQ personnel the process used to compile the PCL;
 2. Reviewed a PCL list for accuracy;
 3. Calculated the percentage of illegal tire dumps on the PCL over certain periods of time;
 4. Discussed with DEQ personnel procedures in place to ensure compensation from the Fund does not exceed the number of waste tires authorized.
 - Reviewed OAC 252:515-21-32(h) and performed procedures to ensure scales used by the facilities receiving reimbursement from the Fund were properly certified.
 - Reviewed OAC 710:915-5-13, 710:915-5-14, and 710:95-5-20 and performed procedures to ensure required forms and supporting documentation for reimbursement were submitted and properly completed.

Observations

Creation of the Prioritized Cleanup List

OAC 252:515-21-3 Priority Cleanup List states:

(a) **Investigation and prioritization.** When the DEQ receives notification of or information about the existence of an unauthorized waste tire dump, a dump survey shall be conducted to determine landowner information, cleanup feasibility, and an estimate of the number of tires present. The resulting data shall be used to prioritize tire dumps on the priority cleanup list (PCL).

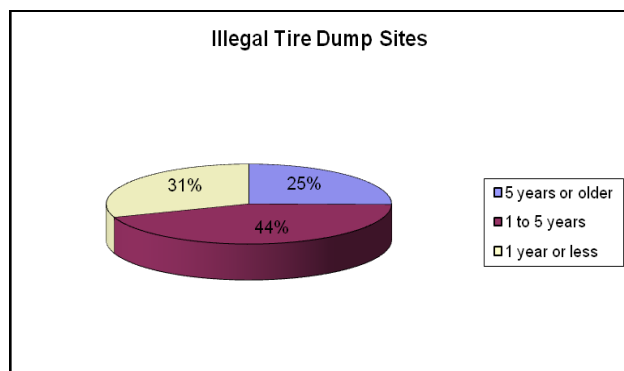
(b) **Priority listing.** Tire dumps will be placed on the PCL when the landowner was the victim of illegal dumping or the DEQ has exhausted the administrative enforcement process.

The following were noted on the PCL published on DEQ's website:

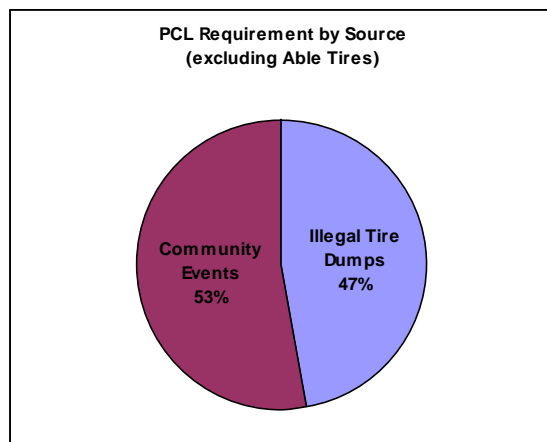
- It does not appear to be prioritized; rather, it is sorted by county;
- It appears to contain duplicates;
- It does not contain authorized tire amounts for all locations;

In addition, the DEQ was unable to provide us with the actual number of tires awaiting collection as of January 24, 2008.

A review of the PCL list as of January 24, 2008 indicates the length of time illegal tire dumps have been outstanding.



State statute requires a certain percentage of tires be collected from the PCL (27A O.S. 2-11-401.4.C.2.d (3)). However, the PCL list includes not only illegal tire dumps, but community-wide events as well. Due to the length of time illegal tire dumps appear to be staying on the PCL list, we performed an analysis to determine how many of the tires used to meet the PCL requirement were collected from illegal tire dumps versus community-wide events. Using the "Request for Compensation from the Waste Tire Recycling Indemnity Fund" forms submitted by the facilities for the period of July 1, 2003 to June 30, 2007, we determined tires were collected as follows:



The analysis above does not contain one facility (Able Tires of Oklahoma). This facility was excluded because they only received payment from the Fund for 29 of the 48 months reviewed (last payment was in November 2005); however, they collected 44% of the tires from the PCL for the period. Based upon the analysis above, it appears facilities are using more tires from community-wide events than illegal tire dumps to meet the PCL requirement.

The age of the illegal tire dumps could be due to the lack of prioritization by the DEQ as well as the PCL requirement allowing the facilities to use community-wide events to meet the requirement. It should also be noted beginning July 1, 2007, the PCL requirement was decreased from 5% annually to 2%.

Recommendation: We recommend the DEQ establish written procedures to prioritize illegal tire dumps so tires can be removed more timely. Possible items to consider in the prioritization include:

- Length of time the dump has been on the list;
- Risk to the environment (near a surface water supply, mosquito infestation);
- Land owner was a victim of illegal dumping;
- Number of tires at site;
- Location (difficult to access).

It should be noted that even if the DEQ were to prioritize the illegal tire dumps, the state statutes do not require the facilities to collect tires based on this prioritization. The only requirement is a percentage of the tires collected and transported must come from locations on the PCL. In addition, they do not provide the DEQ with the authority to enforce the cleanup of illegal tire dumps based on this prioritization. Therefore, we recommend the DEQ work with the Legislature to amend the state statutes to address how the prioritization should be used to collect the tires and provide the DEQ the authorization to enforce this requirement.

Additionally, the DEQ should consider possible alternatives to cleaning up illegal dumps based on the prioritization. Such alternatives could include:

- Increasing the PCL requirement the facilities must meet to receive reimbursement from the Fund;
- Requiring a specified percentage of tires collected to meet the PCL requirement must come from illegal tire dumps;
- Exercising administrative authority granted by state statute (27A O.S. § 2-11-401.7). DEQ program management stated this had never occurred to their knowledge;
- Eliminating the PCL requirement for the collection/transportation reimbursement and dedicating a portion of the Fund specifically for cleaning up illegal tire dumps. Once funding is dedicated, the DEQ could consider:
 - Contracting with the Department of Corrections or specific local governments to use individuals on probation (i.e., community service) or minimum security prisoners to supply the labor associated with clean up. Officials in North Carolina found this to be a successful venture.
 - Using a competitive bid process to contract with companies to collect and transport the tires from dumps to the processing facilities.

We further recommend the DEQ ensure the list does not contain duplicates and the actual authorized amount is readily determinable by the reader. Many of the errors noted previously appear to be due to the current database being used by the DEQ. As a result, the DEQ should consider updating their current database system to a system that would eliminate these types of errors. The system should also be able to provide the Department with the ability to update and report the number of remaining authorized tires at a location.

Views of Responsible Officials:

Background:

The DEQ currently prioritizes the PCL using information entered into a Facility Management System (FMS). However, state statutes effective during the time period of the audit does not give DEQ the authority to require specific dumps to be cleaned up by permitted waste tire processors. Processors are required to collect a percentage of PCL tires annually to receive compensation. The PCL percentage requirement continues to decrease due to legislative changes.

As pointed out in this report, a higher percentage of tires are collected from community-wide events than from illegal tire dumps. Community-wide events deter illegal dumping and provide individuals with a viable option to recycling waste tires. Although DEQ encourages community-wide events, it is imperative that processors continue to clean up illegal tire dumps because they often pose risks to human health and the environment. Since the audit period, the PCL requirement has decreased from 5% to 2%. This is problematic in that the number of waste tires cleaned up from illegal dumps has decreased since the inception of the new law.

In accordance with 27A O.S. § 2-11-401.7, DEQ may enter a property to clean up a tire dump. The DEQ may also recover the cost of the clean up and all other monies expended in connection with the clean up. These situations are very rare because most cases are resolved prior to the pursuance of administrative enforcement actions.

Response to Recommendations:

In response to recommendations contained within this report, we are refining our prioritization process. We plan to further prioritize illegal tire dumps based on length of time the tire dump has been on the PCL and whether there is significant risk to human health and/or the environment. Further, DEQ has promulgated emergency rules effective March 2008 that allows DEQ to assign dumps to processors and require a clean up within a specified time frame [OAC 252:515-21-5(d)]. In order to receive compensation from the waste tire recycling indemnity fund, the processors must receive approval from DEQ [OAC 252:515-21-71(d)].

Several comments were made with regard to our existing database. Recently, information in FMS related to the waste tire program was inadvertently compromised. In order to mitigate for inaccurate information, we will be maintaining a separate PCL database until FMS has been restored. Other databases are currently under consideration for use by the entire agency. In the interim and in response to the recommendations contained in this report, staff will be required to enter data in a consistent manner.

DEQ has not found it necessary to enforce 27A O.S. § 2-11-401.7 during this audit period. In most cases, these types of issues are resolved with the landowner or responsible party. However, DEQ retains the statutory authority in rare cases where voluntary compliance cannot be obtained and the administrative enforcement process has been exhausted. The DEQ has utilized such provisions in previous audit periods.

PCL Number of Tires Authorized for Compensation

OAC 252:515-21-3 Priority Cleanup List states:

- (d) **Number authorized for compensation.** The PCL shall include the name and number assigned to each tire dump on the list and the estimated total number of tires contained therein. For each waste tire dump on the PCL, the total number of waste tires authorized for compensation from the fund shall not exceed the number of waste tires identified.
- (e) **PCL updates.** For each waste tire dump on the PCL, if the total number of waste tires identified on the PCL is removed from that dump and there are waste tires remaining, the DEQ may update the PCL to reflect the remaining number of waste tires.

Based upon discussion with DEQ personnel regarding the PCL list, we noted:

- The DEQ does not have procedures in place to ensure the total number of waste tires authorized for compensation from the fund does not exceed the number of waste tires identified. Prior to July 1, 2007, the DEQ was not responsible for payments to the facilities; therefore, compliance with this rule was more challenging. However, since July 1, 2007, the DEQ has begun reviewing the requests for reimbursement prior to payment, which could allow them to establish procedures to detect when the total number of tires requested for reimbursement exceeds the authorized amount.
 - For illegal tire dumps, the DEQ relies on the facility requesting the compensation for the collection and transportation of the tires to contact them to have the amount reauthorized. This process is problematic because the DEQ is relying on the requestor to detect when exceptions have occurred and multiple facilities can clean up an illegal tire dump. This increases the risk errors could occur and not be detected in a timely manner.
 - For the community-wide events, the DEQ does indicate on the “Waste Tire Exemption Report” the host of the event is to submit a report documenting the number of tires collected once the event is complete or annually. However, DEQ personnel indicated the submission of the form is not enforced. As a result, if the hosting location does not complete and return this form to the DEQ, there is no way to detect when errors have occurred. When the form is submitted, the number of tires reported is compared to the compensation request to ensure no errors have occurred. If errors are detected, the facility’s compensation can be reduced accordingly.

Recommendation: We recommend the DEQ establish and implement written procedures to detect when facilities have requested compensation from the Fund for more tires than have been authorized from an illegal tire dump or community-wide event. These procedures should be an on-going process (monthly) and could include:

- Using a database with the capabilities to detect when more tires have been requested than authorized;
- Maintaining a current balance of the number of tires at each illegal tire dump, which is reduced as compensation is requested;
- For the community-wide events, requiring documentation from the event identifying the number of tires collected, who collected them, and when the collection occurred, and comparing the information to the compensation documentation in a timely manner to ensure errors have not occurred.

Views of Responsible Officials:

Background:

During the audit period, the PCL was maintained in FMS. This system recognizes each illegal tire dump, community-wide event and receipt location as a facility identified by a unique authorization number. Each number is linked to supporting information within FMS. Based on this information, reports can be generated that reflect a list of closed and open community-wide events and dumps, PCL clean up for each facility, etc. This information is also used to create a PCL report which is posted on the agency's website. However, information reflected in FMS reports is only as accurate as the estimation made at the time of inspection or re-authorization.

The number of waste tires collected from community-wide events and illegal tire dumps is reported monthly by processors and input into FMS by staff. This information allows DEQ to track when a tire dump or community-wide event has been completed. Staff confirms with the landowner or community that an illegal dump or community-wide event has been cleaned up.

Communities are not required to report the number of waste tires picked up by a processor during a community-wide event. However, DEQ does request that the community send a report confirming the number of tires picked up from an event. Processors are required to report the number of tires picked up and whether the community event was completed. This information is input into FMS by DEQ staff.

Response to Recommendations:

As mentioned in the previous section, the current database that stores waste tire program information has been recently compromised. In order to mitigate for inaccurate information, a separate PCL database will be maintained until FMS has been restored. The interim PCL will maintain a current balance of the number of tires at each open community-wide event or illegal dump. Staff will continue to enter information into FMS because once the supporting information is restored, the number of tires can be accurately reflected based on current and historical dump activity.

In order to ensure compliance with recommendations contained within this report and in accordance with OAC 252:515-21-3 (c), a re-authorization process will be implemented to mitigate the opportunity for overpayment. A processor will have to request a re-authorization if the number of waste tires on site exceeds the number authorized by DEQ. Staff will be working with our local staff to accommodate the needs of the processor in a timely manner.

For all community-wide events, communities will be required to report to DEQ the processor that serviced the event, number of tires, and rim sizes. This information will be compared with data provided by the processors. Any discrepancy will be resolved prior to approval for compensation.

Objective 3 – Determine if recommendations from prior engagements were implemented.

Conclusion

The prior period's report contained four recommendations that were considered significant within the context of the audit objectives. It appears three were implemented and one was partially implemented.

Methodology

To achieve our objective, we performed the following:

- Discussed with OTC and DEQ personnel any changes in procedures which would improve the system of accountability for this program;
- Discussed with DEQ personnel procedures performed to investigate any suspected noncompliance with the Waste Tire Recycling Act and enforcement actions performed as a result of findings;
- Reviewed the DEQ's written procedures to determine if they address periodically surveying illegal tire dumps as a way of monitoring the progress made in removal of tires;
- Reviewed documentation related to the DEQ's written procedures for periodically surveying the illegal tire dumps to ensure they have been properly implemented;
- Reviewed the "Oklahoma Waste Tire Report" to determine if the form had been revised to be more easily understandable. We also compared the amount of tire fees remitted to the number of tires reported as sold and registered for state fiscal year 2007 to determine if they appeared reasonable.

Observations

The DEQ's written guidance (procedures) on the PCL states, "all dump sites on the PCL are re-inspected once every two years to ensure more tires are not being dumped and that the sites are being cleaned up." DEQ personnel stated re-evaluations on all dump sites were performed in 2005; however, since that time, consistent site visits have not been performed. We reviewed evidence a re-evaluation had been performed for five illegal tire dump locations. While reviewing the re-evaluations, we noted the FMS database contained both the original authorization amount, and the amount of tires actually observed on the date of the re-evaluation. As a result, a reader cannot accurately determine the actual number of authorized tires for these locations.

Recommendation: We recommend the DEQ comply with their written procedures or revise them to reflect the actual procedures being performed. Staff should also be trained in how to report the original authorization amount, re-evaluation site visit amounts and reauthorization amounts into the FMS database to ensure information is being entered in a consistent manner by all employees, allowing for proper reporting of the number of tires on the PCL.

Additionally, as noted in this report under Objective 2, the DEQ should consider updating the FMS database to allow for:

- A current and accurate reflection of the number of tires authorized for a site;
- A current and accurate reflection of the number of tires remaining at a site.

Views of Responsible Officials:***Background:***

In 2005, the Waste Tire Program performed several re-evaluations on tire dumps. Since those re-evaluations, personnel constraints have limited the ability of the program to consistently re-inspect tire dumps unless specifically requested or a discrepancy occurs. During the audit period, guidance documents were developed for internal use. These documents provided regulatory references, applicability, purpose and technical discussions for posting illegal tire dumps and maintenance of the PCL, investigation of tire complaints, authorizing community-wide clean up

events, inspecting and re-inspecting tire dumps on the PCL, erosion control projects, and authorizing receipt pick up locations.

Response to Recommendations:

Waste Tire Program Staff will be developing a viable re-inspection program for community-wide events, landfills, illegal dumps, and receipt locations. Staff will review all existing guidance and update internal procedures based on current statutes, rules and personnel limitations. Staff will also be required to enter data into FMS in a consistent manner so that the reader can easily determine the actual number of tires initially authorized or remain on site.

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NOTE: During the audit period, the Oklahoma Waste Tire Recycling Act was amended and re-numbered. The statutes documented below are those effective through June 30, 2007. Superseded documents should be reviewed to obtain a full knowledge of the statutes in place during the audit period.

27A O.S. § 2-11-401.4

- A. Compensation to waste tire facilities and tire-derived fuel or TDF facilities pursuant to this section shall be limited to facilities located in Oklahoma. Compensation for waste tire activities pursuant to this section shall be limited to waste tires from Oklahoma. To be eligible, applicants for compensation shall be in compliance with the Oklahoma Waste Tire Recycling Act.
- B. The monies accruing annually to the Waste Tire Recycling Indemnity Fund shall be allocated first to the following:
 - 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. An amount not to exceed 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 this title; and
 - 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.
- C. After the allocations under subsection B of this section 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:
 - 1. 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:
 - a. 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,
 - b. 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
 - c. 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;
 - 2.
 - a. 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.
 - b. Compensation under this paragraph 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.
 - c. 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.
 - d. To be eligible for compensation pursuant to this paragraph, the waste tire facility or TDF facility shall:

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- (1) 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,
 - (2) 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
 - (3) 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.
 - e. 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;
3.
 - a. 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.
 - b. Reimbursement under this paragraph shall be subject to the following:
 - (1) the applicant for reimbursement collects or provides for the collection and utilization of waste tires in an erosion control project in Oklahoma in accordance with a written plan approved by the United States Army Corps of Engineers or by a local Conservation District,
 - (2) the tires are collected and transported to the site of the erosion control project,
 - (3) the site landowner agrees to plant trees or other suitable vegetation in accordance with a planting plan developed in conjunction with the Division of Forestry of the State Department of Agriculture, Food, and Forestry,
 - (4) the applicant reports and certifies the number of tires utilized. The applicant shall by sworn affidavit provide to the Commission sufficient information to verify that the applicant has utilized the tires in accordance with the purposes of the Oklahoma Waste Tire Recycling Act,
 - (5) the applicant annually demonstrates that at least five percent (5%) of the tires utilized by the applicant for which compensation is requested were collected from tire dumps or landfills on the Department priority cleanup list or community-wide cleanup events approved by the Department,
 - (6) the applicant demonstrates to the satisfaction of the Department that the applicant is regularly engaged in the collection, transportation and delivery to erosion control projects of waste tires, on a statewide basis, and from each county of the state, at no additional cost to the tire dealer or automotive dismantler and parts recycler or to the Fund, and
 - (7) the applicant provides 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.
 - c. In lieu of proof of remitted tire recycling fees, the applicant 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.
 - d. 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.
 - e. 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;

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4. a. Compensation to a unit of local or county government that submits to the Department for approval a plan for the use of baled waste tires in an engineering project. Compensation shall be at the rate of fifty cents (\$0.50) per tire.
- b. The plan shall be approved by the Department before construction of the project begins.
- c. Any unit of local or county government baling waste tires shall not accumulate more than fifty waste tire bales prior to beginning construction of an approved project.
- d. Waste tires baled pursuant to this paragraph cannot be obtained from tire manufacturers, retailers, wholesalers, retreaders, or automotive dismantlers and parts recyclers.
- e. Any unit of local or county government authorized to receive reimbursement for the use of baled waste tires in an engineering project shall report and certify whole waste tires by number. The governmental unit shall by sworn affidavit provide sufficient information to the Commission to verify that the unit has utilized the tires in accordance with the purposes of the Oklahoma Waste Tire Recycling Act; and
5. 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 under this subsection according to the percentage of waste tires processed, collected and transported, or utilized
- D. 1. After the allocations under subsections B and C of this section 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.
2. 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.
3. TDF facilities and waste tire facilities authorized to receive reimbursement under this subsection shall report and certify tire material used by weight.
4. 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.
5. 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.
- E. After the allocations under subsections B, C and D of this section 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.
- F. 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.

OAC 252:515-21-3. Priority cleanup list

- (a) **Investigation and prioritization.** When the DEQ receives notification of or information about the existence of an unauthorized waste tire dump, a dump survey shall be conducted to determine landowner information, cleanup feasibility, and an estimate of the number of tires present. The resulting data shall be used to prioritize tire dumps on the priority cleanup list (PCL).
- (b) **Priority listing.** Tire dumps will be placed on the PCL when the landowner was the victim of illegal dumping or the DEQ has exhausted the administrative enforcement process.
- (c) **Submittal.** The DEQ shall submit the PCL monthly to the Oklahoma Tax Commission (OTC).
- (d) **Number authorized for compensation.** The PCL shall include the name and number assigned to each tire dump on the list and the estimated total number of tires contained therein. For each waste tire dump on the PCL, the total number of waste tires authorized for compensation from the fund shall not exceed the number of waste tires identified.
- (e) **PCL updates.** For each waste tire dump on the PCL, if the total number of waste tires identified on the PCL is removed from that dump and there are waste tires remaining, the DEQ may update the PCL to reflect the remaining number of waste tires.

OAC 252:515-21-32. Facility operation requirements

- (h) **Weighing processed materials.** Each load of processed tire material shall be weighed on scales tested and certified in accordance with the requirements of the state Board of Agriculture.
- (1) Each truck and/or trailer shall be weighed full and empty.
 - (2) Gross and tare weights shall be imprinted on the same weight ticket.
 - (3) Stored tare weights shall not be used.

OAC 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.

- (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.

OAC 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

- (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:

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- (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.



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