

WASTE TIRE ADVISORY COMMITTEE (WTAC) MEETING

December 13, 2012

CDPHE Denver, Colorado

I. Call to Order and Introductions

- a. Chairman Reid called the meeting to order.
- b. Waste Tire Advisory Committee (WTAC) Members, Hazardous Materials and Waste Management Division (HMWMD), Division of Environmental Health and Sustainability (DEHS), and Attorney General Office (AGO) staff, and other attendees' introductions.
 - i. WTAC members in attendance: Joel Bolduc, Chris Houtchens, Rusty Hardy, Larry Hudson, Charles Johnson, Trent Peterson (via phone), Jim Reid, Scott Skorka, and Rick Welle.
 - ii. Colorado Department of Public Health and Environment (CDPHE) Waste Tire staff: Shana Baker, Nick Boudreau, Brian Gaboriau, and Patrick Hamel.
 - iii. AGO staff: David Banas and Patrick Pfaltzgraff (via phone).
 - iv. Other attendees: Jim Cole (Holcim), Joe Collard (Geocycle), Alan Greer (Geocycle), Teresa Immel (CTR/AT&T), Karin McGowan (CDPHE), Warren Smith (CDPHE)

II. General Business

- a. Approval of November 8, 2012 meeting minutes.
 - i. Motion for approval of the November 8, 2012 minutes.
 1. Joel Bolduc asked to include a comment made by Alan Greer (Geocycle) regarding how Holcim and Geocycle would favor a reduction of the maximum per ton monthly payout.
 - a. Joel provided the language to be inserted to Shana Baker. Shana reviewed the November 8, 2012 recording and determined that this comment was made during the \$1.50 Fund – Draft Report Discussion.
 - b. Alan Greer further explained this comment.
 2. WTAC motion to approve the November 8, 2012 minutes, with the insertion of Alan Greer's comment in the \$1.50 Fund – Draft Report Discussion, passed unanimously.
 - ii. Approved minutes will be posted at the Hazardous Materials and Waste Management Division Waste Tire Advisory Committee website:
<http://www.colorado.gov/cs/Satellite/CDPHE-HM/CBON/1251617146350> .
- b. Elections

- i. Jim Reid informed the WTAC that elections for a Chairman and Vice-chairman will be held at the January 10, 2013 WTAC meeting.
 - ii. WTAC members that are interested in running for either the Chairman or Vice-Chairman positions should let Shana know by January 2, 2013.
 1. Jim Reid and Chris Houtchens both indicated to the WTAC that they are interested in remaining as Chair and Vice-Chair.
- c. Law Enforcement Grant Fund
- i. Jim Reid brought up how there have been issues and concerns regarding how the Law Enforcement Grant Fund can be used.
 - ii. Jim deferred to Charles Johnson regarding the Fund's statutory language.
 1. Charles had a question regarding the fund's language regarding oversight, specifically how far does oversight extend?
 - a. Would like consideration, from Patrick Pfaltzgraff and WTAC members, about what does oversight mean exactly (customer assistance, assistance in training and inspections, enforcement and enforcement follow-up).
 - b. Trying to explore the full extent of the Fund's statutory authority, as the Department has had difficulties in utilizing these Funds for the benefit as they are described in the statute.
 - i. Patrick Pfaltzgraff responded that it depends on the context and history of these Funds. Oversight is more of an accounting function that monies are being properly used.
 1. Charles pointed out that this was a new Fund that was created by HB 10-1018, so there is no history. Charles also noted that it is also worth integrating this with solid waste's authorities for local jurisdictions to implement and enforce.
 - ii. Patrick indicated that we can rely on the history of the use of similar funds to make a determination as to what the extent of the authority is.
 - c. Patrick Pfaltzgraff suggested that Shana send an e-mail with the exact language
 1. Jim and Charles can also put together a couple of questions to give to Shana.
 - d. Joel Bolduc asked if there was any language that describes the Fund.
 1. Yes – C.R.S. 25-17-207(4)

- e. Jim Reid would like to meet with the Colorado Division of Fire Prevention and Control, the Colorado State Patrol, and CDPHE to discuss possibilities of the Fund.
- d. Legislative Update – Karin McGowan, CDPHE Director of Community Relations
 - i. Karin McGowan helps with CDPHE’s legislative agenda and works with state legislators and the Joint Budget Committee (JBC).
 - ii. This is the third year the Department will ask for a supplemental request to deal with monies from other waste tire funds spilling into the Processor End User Fund.
 - 1. This has triggered questions from Karin as well as the JBC analyst.
 - a. Do want to keep asking for supplemental requests?
 - b. Are waste tire program funds running as effectively as they should or could be?
 - 2. In concert with the TetraTech study, Karin is asking the WTAC to look at how the waste tire programs are running.
 - a. Why certain waste tire program funds are spilling over and are not fully spending down?
 - b. Look at the fee allocation for each waste tire program fund.
 - c. When the TetraTech report comes out, make recommendations on how to improve the program so we don’t have to keep going back to the legislature each session task for supplemental requests
 - 3. Preliminary conversations with legislators indicate that continuous appropriation to deal with the spillover will not work.
 - a. If we keep asking for supplemental requests, eventually someone is going to ask what is going on with the waste tire program and why don’t we have funds working the way they are supposed to be working.
 - i. Karin is concerned that this will result in someone else wanting to fix the program for us.
 - 1. Preferrance is to have recommendations to these fix the problem come from the WTAC.
 - a. CDPHE staff has really good ideas that they have thought about to present to the WTAC.
 - 4. Charles Johnson summarized that process wise, the WTAC should work on ideas ahead of the TetraTech final report so something can be done this legislative session.
 - a. Karin confirmed this; she is worried that if we keep going to the legislature with supplemental requests, that something with the JBC may be triggered.

5. Jim Reid asked Karin to clarify what the JBC is and what are supplemental requests.
 - a. Karin explained that the JBC is the Joint Budget Committee.
 - i. The JBC controls the budget for the legislature.
 - b. At the beginning of the year, there are lined items that lays out what funding goes to the various waste tire program funds and the funding that comes in.
 - i. The way the statute is written appropriates the amount of money that goes into each fund.
 1. Money that is left over in funds at the end of the fiscal year (Waste Tire Cleanup Fund, Waste Tire Fire Prevention Fund, Law Enforcement Grant Fund, and Waste Tire Market Development Fund) will go into the Processor End User Fund.
 2. There is an appropriated amount of money in the Processor End User Fund. If exceed the set amount of money in this fund, we don't have the authority to spend it (unless go back to the legislature and ask permission to spend it).
 - a. This is the third year in a row that we need a supplemental request to get permission to spend the amount of money that is actually in this fund.
6. WTAC needs to consider options to address this issue.
 - a. Karin mentioned a few items that the WTAC may want to consider:
 - i. Lower the fee on new tires sold.
 - ii. Tweak some the fund allocation amounts.
 - iii. Ease of access of these funds, based on how the statute is written.
 1. E.g., local governments to access the waste tire cleanup funds.
 - b. These options can be used with the TetraTech study.
 - c. Timeline was discussed.
 - i. Have something by the end of March to take to the legislature would be ideal.
 - d. Charles Johnson offered CDPHE staff services to provide some drafts and redline strikeouts to have something tangible to work with.

- i. Have better luck getting through the legislative process considered changes to the statute instead of starting with a brand new bill.
 - e. Jim Reid expressed his concern with the TetraTech study, that it may not be embraced by all WTAC members. He wants to do it appropriately
 - i. Jim indicated that it will take a commitment by all members to work on this (this includes meeting more frequently).
 - ii. Karin noted that a study is a recommendation, and that you don't have to do exactly what it says.
 - 1. Can help with ideas.
 - 2. Why may disagree with the study and have cogent arguments.
 - iii. Karin pointed out that the JBC staffer knows that the TetraTech study is coming out and will probably look at it.
 - iv. Jim and Karin agreed that not everything may get done, but that we are headed in the right direction.
7. Rick Welle asked if this would be a CDPHE bill.
 - a. Karin indicated that she hopes it could be a CDPHE bill.
- e. Waste Tire Program – Path forward
 - i. Discussion regarding how the WTAC will proceed regarding how to address the waste tire program fund issues and have something for the legislature.
 - ii. Jim Reid asked when the TetraTech report is due.
 - 1. Brian Gaboriau responded that the draft report is due March 15, 2013.
 - a. WTAC will look at and pose any questions.
 - b. Can be finalized quickly if no questions.
 - 2. Joel Bolduc asked if the draft due date can be moved up to March 1, 2013.
 - a. Brian indicated that he reached out to TetraTech to let them know what was going on.
 - i. TetraTech is aware of this. However, they may be unable to get the draft to the WTAC earlier.
 - 1. Brian will follow-up to see if it is possible to move up the draft due date.
 - 3. Rick Welle asked if TetraTech can give the WTAC a presentation updating the work they have completed.
 - a. Brian will check if they can come in to give the WTAC an update during the January 2013 meeting.

- iii. Charles Johnson brought up the time table and upcoming meetings to work on this.
 1. Charles suggested that the WTAC consider adding WTAC meetings for February and April 2013 to work on the waste tire program issues.
 - a. Jim asked the WTAC members if they object to adding February and April 2013 meeting dates.
 - i. There were no objections from WTAC members.
 - b. Meetings added will be held on February 14 and April 11, 2013.
 2. Per Karin McGowan's suggestion, at the January 2013 WTAC meeting, Charles Johnson and Patrick Hamel will provide a basic review of the Waste Tire Fee allocation.
 - a. What are all the funds?
 - b. How do the funds flow?
 - c. What's been happening with the funds and how they are being used?
 3. Brian Gaboriau will check to see if TetraTech can come to the February 14, 2013 meeting to present their preliminary results.
- iv. David Banas asked when is the latest date a bill can be submitted to the legislature for late bill status.
 1. Larry Hudson indicated up until the first week in May (if want to rush something through).
- v. Additional discussion among WTAC members about the WTAC's involvement in the legislation process.
 1. Rick Welle asked the limitations, business to business, to discuss these matters.
 - a. Patrick Pfaltzgraff indicated it depends on what the discussions will entail.
 - i. If discussing anything that is considered public business, need to be mindful of the Open Meetings Act.
 1. Need more description of what want to discuss.
 - b. Rick provided an example – there are a lot of industry representatives here at the table; may be talk of how to distribute funds and this trickles down outside of these meetings to other businesses.
 - i. Charles Johnson indicated (as an outsider looking in) how we don't get in the middle of business to business relationships. However, if it's in the context on how we would want to impact any

changes in that legislation and CDPHE has asked assistance to participate through the WTAC, it may start to encroach on an open meeting.

- ii. Jim Reid added that WTAC members were selected because you could tell us how legislation can impact your business.
 1. Patrick Pfaltzgraff agreed with Jim. If what talking about are discussions that go on during the WTAC meetings, have a hard time coming up with an analogy that would be problematic.
 - a. Easier if knew specifically what would be talking about.
 - b. Generally, if what discussing is related to the proper use or providing some type of input/advice regarding the funds, can't see this as a problem

III. Waste Tire Program Update – Shana Baker & Nick Boudreau

- a. Waste Tire Fire Prevention Fund and Law Enforcement Grant Fund
 - i. Waste Tire Fire Prevention Fund –
 1. Received 11 applications for equipment/supplies funding.
 - a. Grant team (consisted of CDPHE staff, Larry Hudson and Jim Reid) met December 5, 2012 to review the received applications and determine grant award selections.
 - b. Out of the 11 applicants, 6 applicants were awarded the total amount requested and 2 applicants were awarded partial award amounts.
 - i. Total amount of \$292,942 available to award – will be awarding almost this entire amount.
 - c. Applicants who were or were not award grant monies will be notified by the end of December 2012.
 2. Charles Johnson explained how this was the first year this was an open competitive process.
 - a. Last year piloted this grant and focused on those areas that had waste tire monofills.
 - b. Learned from our experiences; pleased that able to allocate the award on need.
 - c. Jim added that there were rural fire departments that asked for assistance in rural areas where there is not a lot of equipment/supplies to respond to a tire fire.
 - d. Jim indicated that he would like to look at mutual aid and first response agencies – would like to see preference go to the first response agencies.
 - i. Charles agreed with this.
 1. Conversation regarding fires and tire fires.

3. Nick Boudreau added how the applications served a dual process, as the application asked what illegal waste tire piles are present in the fire department's response area.
 - a. We got documentation of illegal waste tire piles we were unaware of.
 - i. Work with Brian Gaboriau to see if these can be cleaned up under the Illegal Waste Tire Fund.
4. Jim Reid brought up that maybe should make it a prerequisite to be eligible for the grant that attend tire fire fighting training.
 - a. Tire fire fighting training was given December 2011.

IV. Waste Tire Grants & Funds Update – Brian Gaboriau

- a. Recycling Incentives Grant
 - i. Ongoing – Four sites have completed their projects.
- b. Illegal Tire Cleanup Fund
 - i. El Paso County – one site cleanup completed; two other cleanups will be completed by end of 2012.
 - ii. Two cleanups in Fremont County and one cleanup in Commerce City have started.
- c. Processors/End User Reimbursement Program
 - i. Available payout amounts.
 1. \$550,000 for September 2012.
 2. Just started working on October 2012 applications.
- d. Processor End User and Section 10 Regulations
 - i. The Solid and Hazardous Waste Commission passed the changes to the Processor & End User and Section 10 regulations.
 1. Told will be effective December 30, 2012.
 - ii. Because of regulation passage, will make adjustments to the current application and develop a tire bale form.
 1. Brian will send out an e-mail to stakeholders when the new forms are available.
 - iii. Joe Collard had a question if the Department will notify municipalities about the Section 10 local government agencies exemption that was passed.
 1. Charles explained Executive Order D 2011-005 (Establishing a Policy to Enhance the Relationship between State and Local Governments) regarding how counties and municipalities are notified at the conception of a new rule or changes to a rule, when the rule has been finalized, and when the rule has passed.
 - a. Can do additional things, including put together a FAQ notification postcard.

e. Questions

- i. Teresa Immel had a question about the waste tire site in Ouray County, where the Army Corp of Engineers is requiring removal of tires. Would this be eligible for the cleanup grant?
 1. Brian Gaboriau explained that Ouray County would have to apply to the Illegal Tire Cleanup Fund for cleanup of waste tires from this site.
 - a. Would work like any other Illegal Tire Cleanup Fund grant where the county would have to apply and the county would have to go through a competitive bidding process to select a third-party contractor.
 2. Charles Johnson explained where at on this site that Army Corp of Engineers is requiring removal of tires.
- ii. Teresa Immel had a question on the tire bale form process.
 1. Brian explained that the form will be part of the Processor End User Application process.

V. \$1.50 Fund Allocation – Revise and Finalize Report

- a. Shana Baker summarized the draft report revision schedule and how the draft report provided to WTAC members includes edits and comments received from WTAC members.
 - i. Shana summarized these edits and comments.
 - ii. Charles Johnson suggested an additional change to reword "... until the Market Development Plan is finalized" to "... until the Market Development Plan is submitted" (note: this statement occurs on the first and last page of the report).
 - iii. Jim Reid asked committee members if there were any additional edits or comments. There were no additional comments or edits.
 - iv. Jim entertained a motion to accept the report with the change Charles suggested in (V)(a)(ii).
 - v. Motion passed unanimously.
- b. Shana Baker explained the changes to the cover letter to accompany the report and how Shana worked with the Department's legislative liaison to ensure that the correct legislative chairs were reflected on the letter and that the correct letterhead was used.
 - i. Jim Reid signed the cover letter.
 - ii. Shana will give the signed cover letter and report to the Department's legislative liaison who will forward this to the Transportation Legislation Review Committee.

VI. Additional comments from Committee Members, Staff, and Guests

- a. Brian Gaboriau asked Rusty Hardy what his role is at the Jefferson County Sheriff's Office.
 - i. Rusty explained that he is the fleet manager for the Jefferson County Sheriff's Office.
 - 1. Rusty is responsible for purchasing, operating, and overseeing 350 fleet vehicles.
 - 2. Patrick Pfaltzgraff noted that Rusty has an extensive law enforcement background.

VII. Setting of the January 10, 2013 Agenda

- a. The WTAC set the agenda for the January 10, 2013 meeting.
 - i. Items from December agenda, with updated meeting information and dates, will remain:
 - 1. Agenda items 1 – 4 and 6 – 9 will stay the same.
 - 2. Agenda item 2 (General Business) will include Chairman and Vice-Chairman elections.
 - 3. Agenda item 5 will be the Waste Tire Program Funds Expenditures Presentation.

VIII. Meeting Adjourned

- a. Chairman Reid called the meeting to a close.
- b. Next meeting is Thursday, January 10, 2013 at 10 am – 12 pm at CDPHE in Room C1E.