WASTE TIRE ADVISORY COMMITTEE (WTAC) MEETING

March 12, 2013 Meeting Minutes

CDPHE Denver, Colorado

March 12, 2013

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), Attorney General Office (AGO), and Joint Budge Committee (JBC) staff and other attendees' introductions.
 - i. WTAC members in attendance: Joel Bolduc, Rusty Hardy, Larry Hudson, Charles Johnson, Trent Peterson, Jim Reid, and Rick Welle
 - ii. CDPHE Waste Tires Staff: Shana Baker, Nick Boudreau, Brian Gaboriau, Patrick Hamel
 - iii. Other CDPHE Staff: Kim Fear, Patti Klocker, Kate Lemon, Karin McGowan, and Warren Smith
 - iv. AGO Staff: David Banas (via phone) and Patrick Pfaltzgraff
 - v. JBC Staff: Megan Davisson
 - vi. Other Attendees: Jason Chan (Waste Management), Joe Collard (Geocycle), J.R. Gilles (EZ Play Surfaces, LLC), Patti Fredrick (Attorney for CTR/AT&T), Mark Molen (Molen and Associates), Rick Welle Sr. (Front Range Tire Recycle)

II. General Business

- a. Approval of February 14, 2013 meeting minutes
 - i. Motion for approval of the February 14, 2013 minutes
 - 1. WTAC motion to approve the February 14, 2013 meeting minutes 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. Vice-Chairman Elections
 - i. Shana Baker announced that Chris Houtchens was re-elected as Vice-Chair of the WTAC.

III. Waste Tire Program - Shana Baker and Nick Boudreau

- a. Solid and Hazardous Waste Commission -- Shana
 - i. Hearing on February 19, 2013 Section 10 Regulations and Statement of Basis and Purpose were readopted and the Regulatory Analysis was adopted.
- b. Waste Tire Fire Prevention Fund Shana

- i. The purchase orders (PO's) were issued to the 8 FD's that were awarded Funds from this Grant. They have until June 26 to purchase, receive, and provide HMWMD with a reimbursement invoice.
- c. Law Enforcement Grant Fund Shana
 - i. Will be working with State Patrol on a proposed Statement of Work and Budget to get this grant up and running.
- d. Waste Tire Hauler Renewals Shana
 - i. Issued renewal for all of the forms that were received.
- e. Waste Tire Annual Reports Shana
 - i. Due April 1 for waste tire hauler and waste tire facilities (waste tire processors, end users, monofills, and collection facilities).
 - 1. A final email reminder will be sent out later this week or early next week to those waste tire haulers and/or waste tire facilities who have not submitted the annual report.
 - ii. The Department will start drafting the Department's waste tire report to the Transportation Legislation Review Committee.
 - 1. Will start drafting report items that are not tied to annual report data. Once get all the data, will analyze and incorporate.
- f. Outreach Shana
 - i. Shana presented on waste tires at the February 27, 2013 Solid Waste Outreach Meeting that was held in Glenwood Springs.
- g. Beneficial Use of Waste Tires on Agricultural Land -Nick
 - i. Meeting held March 8 in Fort Morgan.
 - 1. Nick summarized that the stakeholders have been working with the agricultural community to develop a list of whole tire beneficial use on agricultural land.
 - a. Discussion on the types of uses resulted in approximately fifteen to twenty different potential uses of a whole waste tire.
 - i. Nick to draft a guidance document that incorporates this information.
 - ii. Develop a list of pre-approved uses of whole waste tires to add to the Section 8 pre-approved beneficial use list.
 - ii. April 12 meeting will be held in Fort Morgan instead of at the Department.
 - 1. Whole waste tire guidance document and pre-approved beneficial use list will be sent to stakeholders prior to the meeting.

IV. Joint Budge Committee (JBC) Discussion - Megan Davisson

- a. Megan Davisson, JBC staff member, gave a summary of the concern of the JBC regarding the waste tire grant funds.
 - i. Specifically, the JBC's concern of the cyclical nature of the reimbursement levels.
 - 1. E.g., how it is easy for someone to time it right to get a good reimbursement rate as opposed if someone does not time it right.

- b. Megan was tasked with coming up with a recommendation to the JBC on what to do with the current funding structure so that it levels the playing field and so it flows a bit better.
 - i. Goals include:
 - 1. To avoid annual supplementals.
 - 2. Reduce big year-end rollovers.
 - ii. Megan to provide this recommendation to the JBC on March 15, 2013.
- c. Megan was asked by the Department to meet with the WTAC to review JBC staff proposed changes to the Waste Tire Program.
 - i. The proposed changes fall into three categories:
 - 1. Restructure of the cash funds.
 - 2. Change the reimbursement methodology.
 - 3. Changes to the fee.
- d. Megan handed out a document that addresses JBC Staff waste Tire Program Proposed Changes and reviewed each of the proposed changes. She explained the structure of the handout (current format, proposed changes, and what the fund would look like if the changes went through)
 - i. Proposed changes to cash funds (there are six)
 - 1. Department of Revenue Waste Tire Fee Administration Cash Fund (created by Senate Bill 13-115; note, is either on second or third reading)
 - a. Currently, their reimbursement is based on actual costs incurred by the Department of Revenue.
 - b. Proposed changes is to make the costs on a set percentage and provide an full time employee for collection of the tire fee.
 - i. Increase tire fee percentage from 1.667% to a set amount of 1.7%.
 - ii. There are tires that are not having this fee collected on.

 The set percentage will allow the Department of Revenue
 to hire someone that is responsible to ensure that the fee is
 being collected on new tire sales.
 - 1. This was also a Tetra Tech recommendation.
 - c. Comments regarding how Department of Revenue is currently receiving money but they are not using it.
 - i. Comment to add an annual of reporting requirement (e.g., inspections, new places paying the fee, etc.).
 - ii. No mechanism to enforce non-collection of the fee currently.
 - 1. If able to establish a structure so accountability can be determined if the money is being used.
 - 2. Innovative Higher Education Research Fund

a. This fund will still sunset the end of FY 2013-2014 and the percentage that previously went to this fund will still to go to the Processors and End Users Fund.

3. Waste Tire Cleanup Fund

- a. Increase fee percentage from 39.66% to 40%.
- b. Funds do not rollover at the end of the fiscal year to the Processors and End Users Fund.
- c. Eliminates the reuse/recycling incentives program under this fund.
 - i. This would be moved under the Marked Development Fund.
 - ii. Concern from some attendees how this may affect their business if money is being taken away.
- d. Would be a state cleanup program that identifies piles, prioritizes cleanups, selects qualified cleanup contractors (which could include counties), monitors contractors, and develops and implements a cost recovery plan to ensure stockpile creators have financial accountability in the cleanup
 - i. State program with state employees that would oversee this.
 - ii. Eliminate counties having to pay for the cleanup up front and get reimburse.
 - iii. The Department would have to build the program up, including how cleanup contractors are selected.

4. Processors and End Users Fund

- a. Increase fee percentage
 - i. FY 2013 2014 from 30.33% to 31.63%
 - ii. FY 2014 2015 to 38.3%
 - 1. The sunset of the Innovative Higher Education Research Fund increases this percentage.
- b. Does not receive end of fiscal year rollover monies from other funds.
- c. Reimbursement structure: 2/3 for end users and 1/3 for processors.
 - i. Attendee comments regarding this change. Were comments in favor/not in favor of this recommendation.
 - ii. Attendees recommended that this be removed.
- d. Reimbursement for either processing or end use, not both.
 - i. Attendee comments to remove.
- 5. Law Enforcement and Waste Tire Fire Prevention Fund
 - a. New fund that combines the Law Enforcement Grant Fund and Fire Prevention Fund.

- i. Same objectives that presently have in the Waste Tier Fire Prevention and Law Enforcement Funds.
- b. Fee percentage is a little lower.
- c. Funds do not rollover at the end of the fiscal year to the Processors and End Users Fund.
- 6. Market Development Fund
 - a. Fee percentage is a little lower (from 6.67% to 5%).
 - i. To keep the Waste Tire Cleanup Fund whole, as a result of the percentage changes this Fund took a slight percentage reduction.
 - ii. Some of the end use incentives would be more appropriate under the Processor and End Use Fund.
 - b. Incorporates the Tetra Tech recommendations.
 - i. Enhance market development through competitive onetime grants to do the following:
 - 1. Overcome initial capital obstacles for new markets by partially funding equipment required for initial use.
 - 2. Partially fund product testing, engineering studies, or other technical assistance required to support market development/acceptance.
 - c. Funds do not rollover at the end of the fiscal year to the Processors and End Users Fund.
- ii. Proposed reimbursement changes
 - 1. To avoid supplementals to increase spending authority.
 - a. Processors and End Users Fund:
 - i. Allocates 1/12 of the total long bill spending authority for each month.
 - 1. Attendee comments express their views regarding this change.
 - ii. Does not change the reimbursement cap and sets the ratio of reimbursement rate for processors and end users.
- iii. Proposed fee changes
 - 1. No change of the \$1.50 per tire fee amount on passenger vehicle tires.
 - 2. Set the truck fee at \$3.75 per tire, base on the model used by the state of Arkansas, which charges 2.5 times more for truck tires.
 - a. Megan is going to make this recommendation, but is uncertain of its passage.
- iv. General questions/comments
 - a. What happens if the money in the funds are not used at the end of the year?

- i. It will not rollover, but it will stay in each fund and can be used for the next year.
- ii. Goal of the recommendation is that all of the money in each fund is utilized.
- iii. Eliminates the uncertainty regarding the amount of money that is available.
- b. Megan explained the process regarding the proposed changes and her time frame on this and how the WTAC does not have to provide input, based on the tight time frame to provide comment.

V. Waste Tire Grants & Funds Update - Brian Gaboriau

- a. Illegal Tire Cleanup Fund
 - i. El Paso cleanup project scheduled to end March 31.
 - ii. Awaiting paper work for the Commerce City cleanup project.
- b. Recycling Incentives
 - i. Three open grants left.
 - 1. Two completed; one scheduled to begin in April.
 - ii. Send out the Request for Application (RFA) for fiscal year 2014 to WTAC members to review.
 - 1. Note: if the JBC puts forth something that changes this grants funding, may have to reduce the amount of money available for projects or cancel this all together.
 - 2. This grant will run similar to how it was run last year.
 - 3. Brian asked if want to give extra credit to non-playground projects (e.g. asphalt project), or keep the scoring the same (based on number of tires and cost).
 - a. Attendee comments regarding that can see doing both of these scenarios, including diversifying the market.
 - b. Brian added that on the scoring spreadsheet would separate out the non-playground projects from the playground projects.
- c. Market Development Fund
 - i. Tetra Tech written report
 - 1. Provided the preliminary regulatory analysis draft.
 - a. This was emailed to WTAC members.
 - 2. Final draft delayed until March 29th.
 - a. Can discuss this draft at the April meeting.
 - 3. This will be emailed to WTAC members for review.
 - ii. Tetra Tech report presentation
 - 1. May 13th at the CDOT Auditorium
 - a. This location was selected due to the amount of people it can hold and the location to attract CDOT personnel.
 - 2. The WTAC discussed who should attend

- a. Transportation Review Committee members
- b. CDOT
- c. CDPHE staff
- d. Attorney General Office staff
- e. Division of Public Safety Division of Fire and State Patrol
- f. Public safety representative
- g. Engineering groups
- h. Asphalt manufacturers
- i. Federal highway
- j. Other stakeholders
- d. Processors/End User Partial Reimbursement Program
 - i. Stakeholder meeting to modify the Processor and End User Regulations
 - 1. March 14th 10 am 3 pm
 - 2. Focus will be on
 - a. Adjusting the payout structure for the processor and end user reimbursements (Section 1.5)
 - b. Adjusting language or eligibility of applicants who submit false documentation (section 1.8)
 - 3. After meeting, WTAC will meet and discuss recommendations to give to the JBC.

VI. Additional Comments from Committee Members, Staff and Guests

- a. Larry Hudson provided an update on Senate Bill 13-050 that concerns the Recycling Resources Economics Opportunity Fund (which the Department oversees). The Bill's proponents had tried to allocate some of the tire fees into this fund; this has been taken out of the bill.
- b. Joel Bolduc had two comments
 - i. Asked if Tetra Tech is still requesting comments.
 - 1. Brian Gaboriau answered that they are still accepting comments and that these comments can be submitted directly to Tetra Tech.
 - ii. Joel commented on the JBC recommendation of 40% to the Waste Tire Cleanup Fund versus 38% to the Processor End User Fund.
- c. Brian Gaboriau reminded everyone to RSVP to the March 14 Processor End User Fund Stakeholder Meeting.
- d. Mark Molen asked who Terry Gray was, as he has contacted some of his clients but he is not identifying himself as Tetra Tech.
 - i. Brian explained how Tetra Tech hired him as a subcontractor.
- e. Rick Welle Sr. commented that moving illegal cleanup dumps to a legal waste tire monofill is not the answer. It is more beneficial for these tires to go to a processor.
- f. Charles Johnson put forth to the WTAC to consider as a standing agenda item on issues raised by the regulated community (fifteen minutes).

- i. Idea this an arena where questions can be vetted and everyone can hear the issue and possible solutions.
- ii. Attendees provided their comments on this and agreed that this would be helpful. Also discussion on how can have additional discussion on areas where need more time to spend on at future WTAC meetings.
- g. Jim Reid reiterated how cleanup of waste tire piles is important. Jim added how we have so many cleanup areas out there and we are playing cleanup. Jim also reminded the attendees that these illegal waste tire piles are not a criminal offense.

VII. Setting of the April 11, 2013 Agenda

- a. The WTAC set the agenda for the April 11, 2013 meeting.
 - i. Reoccurring items from the March agenda, with updated meeting information dates, will remain.
 - 1. New items to the agenda will include:
 - a. Tetra Tech Draft Update
 - b. Regulation Roundtable (15 minutes)

VIII. Meeting Adjourned

- a. Chairman Reid called the meeting to a close.
- b. Next meeting is Thursday, March 14, 2013 after the Processor/End User Regulations Stakeholder meeting at CDPHE in Room C1E.