

SCRAP TIRE ADVISORY COMMITTEE MEETING

MAY 11, 2006

9:00-1:00

Lansing, Constitution Hall, First Floor North
Katherine Cushman Conference Room

MEETING SUMMARY

Attending:

Name	Affiliation	Phone Number	E-mail Address
Rhonda Oyer Zimmerman, Chair	DEQ	517-373-4750	oyerr@michigan.gov
George Bruchmann	DEQ	517-373-9523	bruchmag@michigan.gov
Steve Sliver	DEQ	517-373-1976	slivers@michigan.gov
Rich Brim	DEQ	517-373-9154	brimr@michigan.gov
Julie Vallier	DEQ	517-335-4924	vallierj@michigan.gov
Noelle Hartner	DEQ	517-335-6200	hartnern@michigan.gov
Sgt. Angela Brown	DEQ-OCI	517-780-7483	browna2@michigan.gov
Rob Dickman	DEQ-AQD	231-775-3960 x6254	dickmanr@michigan.gov
Ann Vogen	DEQ- Detroit	313-456-4663	vogena@michigan.gov
Nadine Deak	DEQ- Kalamazoo	269-567-3592	deakn@michigan.gov
Rob Schmeling	DEQ- Upper Peninsula	906-346-8545	schmelir@michigan.gov
Ada Takacs	MDNR	989-275-5151 x2049	takacs@michigan.gov
John Barak	MDOT	517-322-4967	barakj@michigan.gov
Craig Detweiler	Entech, Inc.	574-596-9243	craig@4entech.com
Mark Meyer	Shrader Tire	419-472-2128	mark.meyer@shrader.biz
Gary Melow	Primary Power	989-875-3822	garym@primarypower.com
Alan Huffman	Huffman Rubber	517-568-3353	
Tim Olson	Olson Tire	989-773-7978	tolson@power-net.net
J. Scott Wing	T.E.S. Filer City Station	231-723-6573 x102	jswing@cmsenergy.com
John Becsry	Asphalt Paving Association of Michigan	517-323-7800	jbecsry@apa-mi.org
Dan Batts	MWIA	269-207-4824	djbatohlf@aol.com

Welcome remarks by George Bruchmann, Chief of the Waste and Hazardous Materials Division, and introduction of participants.

Purpose of the Scrap Tire Advisory Committee: Provide an open forum for discussion of issues in industry, trends, and improvements for the Scrap Tire Program, Part 169. The goal is to move forward with a proposed legislative package for improvements to Part 169, Scrap Tires, of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended (Part 169).

Methods of Communication: The DEQ can set up a web site, list-serv or a Yahoo Group on the internet for committee members to access information between meetings. The site can contain meeting summaries, discussions on various issues, and other pertinent documents. There was discussion on how to formalize the process. There was general support of STAC members for setting up a web site and a Yahoo Group for the STAC. There should be a two-way communication between the DEQ and stakeholders and available tools should be used to make this as easy as possible. ***DEQ staff will make the necessary arrangements.***

Issues Discussed:

There are some issues on which not everyone will agree. We need to figure out how to have members sign off on issues to determine if they agree or disagree. We want to be able to memorialize group opinions without dampening the discussion.

There was a discussion that some of those listed as participants in the Scrap Tire Work Group never attended any of the Scrap Tire Workgroup Meetings. Subsequently, they might have disagreed with many things in the final report. There was discussion on use of the term “consensus.” Some members felt that since they didn’t agree with certain aspects of the Scrap Tire Workgroup’s Recommendations it shouldn’t have been considered a consensus. It was also agreed by DEQ to remove the word “consensus.” It was brought up again that some kind of “sign-off” or “agree/disagree” on issues should be set up. ***The DEQ will establish a process for approval and sign off; perhaps via the internet site.***

There was more discussion later on in the meeting on the “consensus” issue. Webster’s defines “consensus” as an opinion held by all or most. Therefore the DEQ took non-responses as tacit approval of the report. The DEQ submitted proposed legislative changes to Part 169 that were felt to be non-controversial and that could be moved forward. It is unclear if this group could ever come to consensus as they are competitors and everyone may not agree on issues. The scrap tire competitors may have some of the same issues but may never come to a complete agreement on how to handle them. It was thought there was a pretty good agreement after the Work Group meetings. The DEQ will make a decision on which way to go based on input. Therefore, a sign-off will not be useful. However, the DEQ must not misrepresent what the group is doing. Must be careful in how the committee’s work is represented. The DEQ must not falsely

attribute items to those who don't support a particular recommendation. Items where there is general agreement should go forward. Be aware, though, that the DEQ cannot guarantee that even if there is complete support on an issue, it will move forward. The committee should put forth recommendations on where Part 169 needs to go based on current circumstances and issues within the industry.

The issue of tire chips was also brought up. These are a product and should not be regulated under Part 169. There are inconsistencies in Part 169; drainfield chips, tire rings, whole tires versus how tire chips are treated. DEQ staff discussed the evolution over the past 16 years of Part 169. In the beginning there were numerous large piles of tires to deal with; on which Part 169 was originally based. Storage regulations were established, along with exemptions which led to unintended consequences. Various amendments have been made over the years to address the problems at the time. This committee is charged with sorting out these issues, finding a solution to discrepancies and improving consistency within the program. Industry is limited by the DEQ on a number of levels: limited amount of TDF allowed to burn, sulfur levels, inconsistencies between laws that govern various aspects of an industry.

Processed tires are going to landfills as daily cover or liner cushion. Dirty tires are not wanted as TDF and the processors may not want to spend time to produce the quality of chips that tire burners would like. The cost range for chips and crumb is between \$20 per ton and \$200 per ton, depending on the quality.

The goal of the Program is to reduce the number of scrap tires in Michigan, as the liability posed by these stockpiles is the biggest issue.

DEQ asked who should be participating in this committee that isn't. Several large retailers were asked to participate but either were unable to attend or gave no response. It was suggested that their trade association should be contacted to see if they would participate on behalf of the large retailers. ***DEQ will follow-up on the invitation.***

Remarks were made that there are only a few big tire piles left. There was discussion of the market development grant funding. What is to be done when all the pre-1991 tires have been cleaned up? Should the state subsidize market development when the material will be gone in a few years? The free market should be allowed to work without subsidies, since once the material has value, it will be gone, but you have to enable people to do it. There is a need to start by setting goals and then working back from there. There still may be small to medium amount of tires discovered in the future. New markets for tire material should be pursued. Once the large piles have been cleaned up shouldn't the grant funds be used for these end markets? There should be a balance between markets and the available funds when tire supplies are low. It was noted that there are an estimated 7 to 8 million tires left (DEQ estimate is 11 million). What will happen in 2-3 years, once they have all been removed? (Unless owner

authorization for access is not provided, the removal estimate is just a few years.)

Should the DEQ subsidize the tire industry? There have been few, if any, successful subsidy programs. Once the subsidy is gone, so are the markets. If special equipment is needed to shred dirty tires, would it be beneficial to state tax payers to subsidize this equipment? No, it is easy to destroy equipment if the operator doesn't know what they are doing. Why pay for equipment that will run out of product in a few years? As it is, the cleanup funds do not cover all costs. Viable, self-sustaining markets are needed for the 10 million newly generated tires each year. There is a need to develop goals and objectives and to make use economically viable. Subsidies do not result in sustainable markets. The goal should be finding long-term sustainable markets. Subsidies don't work because as soon as the money is gone, markets are gone and state is back to having the same problems. The balance is to protect against the unscrupulous while allowing markets to develop. The emerging alternative energy market may be one area for development. ***The market development issue needs to have a whole meeting devoted to it where members come prepared to present their opinions.***

Has the ban on whole tires from landfills increased dumping? The Detroit area has seen more abandoned scrap tires than the northern part of the state. Tires that would have found their final home at landfills in the past are now being dumped on vacant lots, country roads, highways and state and federal forests. Small stores used to throw tires in the dumpster but can't anymore as the trash haulers won't take them. It was mentioned that we are getting back to the conditions of 1990. However, the tire ban from landfills is what the law requires.

Many tires are not getting to processors because of dumping. Ada Takacs of the DNR's Adopt-A Forest program works with communities for tire cleanup of the state and federal forests. Curbside doesn't work in rural areas so community cleanup days are established. Once the tires are collected they determine the markets for them. Some haulers who are paid to remove the tires end up dumping them in the woods.

Customers don't want to pay the disposal fee so they take them back and dump them in the woods or someone's back 40. Education is needed. Some retailers charge \$3.00 disposal fee. Scrap tire haulers charge less. Therefore, retailers make a profit. Some people cannot afford the \$3.00. Roscommon did a survey and 90% of people said they would pay up to \$3.00 per tire.

Should grant funds be used for community or roadside cleanup? Does it promote proper management of scrap tires? Adopt-A-Forest oversees 700 sites, approximately 500 of which contain abandoned tires. Funds should be made available to communities for cleanups. Retailers should be paid to accept tires from citizens to make it more attractive for them to dispose of tires at a regulated

site rather than dump them. The DEQ should provide for more flexibility in the grant program.

There are “volunteers” who pick up scrap metal on abandoned roads or sites and they are paid for the metal. Something similar should be done with tires. Make it worth it for “volunteers” to pick up abandoned tires. It was suggested to have a tire deposit law similar to the bottle bill. Sometimes it is difficult to hire a scrap tire hauler. Let folks take tires to retailers or have a community cleanup day. There could be a temporary registration issued for a cleanup day or waiver from registration for haulers participating in community cleanup. This would allow use of local resources to deal with the problem if there is an exemption. A voucher system might work so communities could take tires to an end-user or processor.

It was suggested that retreads are not scrap tires, but usable casings. Issue Number 10 in the Work Group report discusses the proposed change to the definition of retreader and to clarify that retreaders are not scrap tire haulers.

Some stakeholders expressed problems obtaining a bond, even though exempt at this time. Contacted all the insurance companies DEQ provided and can't buy one. DEQ needs to provide for alternate ways to bond collection sites. The Surety Bond form was approved by the Attorney General's office. Bonding companies do not like the extension language or more than one year that AG insists is needed. This is a reason that bonding companies don't like to write scrap tire bonds. The purpose of a bond is to help cleanup the site if there is a fire or if the site has become abandoned. Collection sites that are in compliance for one year can be exempted from having a bond. However, if an exempted site goes out of compliance, they must get a new bond. If there are problems obtaining a bond, there are other alternatives: cash bond, letter of credit or certificate of deposit. If you don't have the money to get a bond, shouldn't be in the business.

The End User Grant Application is too onerous for people to want to apply. Non-discrimination language in the grant contract boilerplate makes it a non-starter to apply for grant as they would already be in violation of the contract. This language is not put forth by the DEQ; it is a requirement by the Department of Management and Budget (DMB). ***At one of the future meetings, the appropriate DMB staff person should attend and explain why this language is there.***

It was suggested end-users should be able to accumulate tires but be exempt from collection site registration so the tires could then be back hauled to a processor. The regulations should allow end-users to have a staging area to accumulate enough tires or chips to make it economically viable.

The scrap tire regulations should be looked at holistically; what is the goal? Are there really the numbers there to make it a problem for Michigan? Look at the

logistical problems for cleanup. Arbitrary numbers: have to put something in there to make a benchmark.

The DEQ needs processor and end-user numbers for use in the July 2006 report to the Legislature on the effectiveness of the grant programs. Also, will need to obtain Air Quality Division's throughput numbers. ***It was suggested that the DEQ, via letter or e-mail, explain exactly what information is needed, timeframe to provide it, etc., and the end-user and processors could provide it.*** This will allow for better numbers for markets. The numbers provided may include tires that were picked up from out-of-state, however. These numbers, once provided, would let the committee agree on how to use in the on-going discussions. Where are the leaks in the current, "live" tire system? How do we deal with them? Small issues make this program complex. If we understand the actual numbers of tires out there, we can run a better program. It was suggested that a flow chart be created that shows where tires are coming from and where they are going.

The issue of the state taking money from a grantee payment was raised. The State of Michigan, when writing a check to someone, will garnish the check if there are outstanding debts owed to the state. This happened to some of the processors. This will come up for grantee's not paying the processor up front, but assigning payment to the processor. It was suggested processors ask for a grantee's state tax refund check up front to see if any money is owed to the state by the grantee.

There are many conflicting regulations applied to the fuel storage issue at end-user sites: local zoning, water, air, etc. ***This is a future agenda item; how to address these dual regulations and maintain consistency between programs.***

The goals and objectives of this committee should be what we are working toward. The committee needs to provide advice to the DEQ on issues that arise during these meetings. The committee should start by working off the Work Group report, monitor legislative activity, etc. Differing ideas will come out of this group depending on the issue discussed. There is no specific schedule or work product required from the STAC.

There followed a discussion of the issues covered in the Work Group report. Some of them will need further discussion by the Advisory Committee; while others are to be recommended for changes in policy or legislation.

Issue 1: Extend the sunset provision for the Scrap Tire Program funding. It was suggested that since the DEQ is required to remove all pre-1991 tires by September 30, 2009, the sunset should be set at that date. However, the DEQ's recommendation is for 2012 since there are still large numbers of piles that are post- 1991 and that pose an imminent threat. There should be some flexibility in

the law on where the funds are directed after 2009 (ie: cleanups vs. market development). DEQ will propose amending the Motor Vehicle Code to extend the funding sunset.

*Issue 2: Scrap Tire Generator Record Keeping Responsibility. **This needs further discussion by the committee.***

*Issue 3: Restore the ability for MDEQ to use a performance bond to bring a collection site into compliance. **This needs further discussion by the committee.***

*Issue 4: Vehicle Seizure. **This needs further discussion by the committee** but DEQ will put forth necessary proposed legislation to add explicit inspection authority.*

*Issue 5: Penalties. **This needs further discussion by the committee.***

Issue 6: End-User Exemption. DEQ will propose amending Part 169 to exempt the person manufacturing the products to be sold in the marketplace who also happens to process the scrap tires.

Issue 7: Redefine crumb rubber; add definition for high end-use commodities. DEQ will propose amending Part 169.

Issue 8: Citation Reference. This is a housekeeping change to Part 169.

Issue 9: Define portable tire chipper. Administrative change to Scrap Tire Hauler Application/Registration will be made. DEQ will propose amending Part 169 to add this definition.

Issue 10: Define “retreader” and provide an exemption. DEQ will propose amending Part 169 to reflect this new definition and exemption.

Issue 11: Update definition of Passenger Tire Equivalents (PTE's). This has already been done.

Issue 12: Define all-weather road. DEQ will propose amending Part 169.

Issue 13: Surety Bond. There was some discussion on the difficulty of getting a large bond. However, the DEQ recommends the current performance bond requirements be maintained.

Issue 14: Applicant's history. The DEQ recommends the current registration requirements be maintained. The DEQ will not pursue an amendment to Part 169 that allows denial of an application based on past history.

Issue 15: Exempt smaller haulers form registration. There was discussion on how 7 tires became the minimum. The Solid Waste Industry was contacted to determine this number. There was also discussion on community cleanups and if they were exempt from this-only if it is a non-profit group. The DEQ recommends the current hauler registration and manifest requirements be maintained. The DEQ will pursue amending Part 169 to allow for the use of a consolidated load manifest for commercial businesses.

Issue 16: Feed storage exemption. ***This needs further discussion by the committee.***

Issue 17: Definitions of junkyard, scrap metal dealer, and auto salvage yard. The DEQ recommends no changes be made to Part 169 and current requirements be maintained.

Issue 18: Market Development and End-User grants. The DEQ will review the applications to incorporate the goals of the programs and reduce the complexity of the application. DEQ recommends changing Part 169 to allow for research and development and capital expenditures. ***Further discussion by the STAC is needed on this issue.***

Issue 19: Timing of Grants. See the Scrap Tire Work Group report for recommendations that the DEQ will pursue.

Issue 20: Showing the effectiveness of Scrap Tire Grant Programs. Committee members were invited to provide their suggestions on how to measure as noted in the discussion above.

Issue 21: Promotion of rubberized asphalt. ***This needs further discussion with appropriate parties, including the STAC.***

Issue 22: Private company tire fire response team. The DEQ has forwarded the information to the MDEQ emergency management coordinator.

Issue 23: Racecourse exemption. The current exemption will be maintained but would review any requests for increases to the exemption on a case-by-case basis.

There was discussion of future meetings. It was felt that there a several issues that would need a meeting of their own. The next meeting will be held in late July and will concentrate on the grant issue.

Next meeting scheduled for Thursday, July 27 for 9 a.m.-noon in the Rachel Carson Conference Room, Atrium North, Constitution Hall in Lansing.