

**REPORT TO THE VIRGINIA GENERAL
ASSEMBLY
ON WASTE TIRE PILE CLEANUPS IN VIRGINIA**

December 2006

Virginia Department of Environmental Quality

**REPORT TO THE VIRGINIA GENERAL ASSEMBLY
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EXECUTIVE SUMMARY

Introduction

Chapter 101 of the 2003 Acts of the Assembly included a provision that increased the Virginia tire recycling fee from \$0.50 to \$1.00 per tire sold at retail from July 2003 through June 2006, with all additional revenue dedicated for the removal and recycling of tires from waste tire piles. It also required the Virginia Department of Environmental Quality (DEQ) to submit a report by December 1 of each year to the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources and the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources on the use of these funds and the progress in cleaning up tire piles. This report is submitted to fulfill this requirement. Note: Chapter 407 of the 2006 Acts of the Assembly included a provision that continued the \$1.00 fee through June 2008. These annual reports will continue through that time.

2006 Activities

As noted in the 2005 Report to the Virginia General Assembly, DEQ began “Clean Sweep” in late 2004. It was a state-wide, multi-contractor effort to rid Virginia of the remaining 280 tire piles by mid-2006.

By mid-2005, work was proceeding well with all 5 contractors. However, by October 2005, it became clear that there would be insufficient funds in the Waste Tire Trust Fund to complete all cleanups covered by these contracts during the time frames specified in the contracts. The reason was that actual piles sizes were much larger than anticipated and budgeted. Accordingly, on November 1, 2005, all new work was suspended. Several contractors were in the midst of cleanups that had to be completed so some work was allowed to proceed; the last of eleven such projects was completed on April 7, 2006. Clean Sweep had addressed 148 piles, but left 132 unabated.

The cleanup work during 2006 included only the work after the suspension date:

<u>2006 Activities</u>	<u>Tires Removed</u>	<u>Cost</u>
Post-suspension cleanups	344,600	\$881,755

Recognizing the insufficient resources in the Waste Tire Trust Fund, the 2006 General Assembly extended the \$1 recycling fee to June 30, 2008. This extension is expected to provide an additional \$5 million to continue the cleanup process.

Even with the extended fee, renewal of Clean Sweep contracts cannot begin immediately (see Financial Management). Accordingly, during the remainder of 2006, DEQ pursued planning and low cost ancillary activities to support future cleanup work:

- Sent letters to owners of piles not reached under Clean Sweep;
- Developed new field surveying techniques to arrive at more reliable estimates of tire pile sizes; A statewide re-surveying initiative began in August 2006 and will continue through the end of 2006;
- Conducted studies and projects to close 4 cleanup sites;
- Began a multi-year plan to balance cleanup work with available revenues.

2003-2006 Results

Because most of Clean Sweep’s accomplishments were quantified in the 2005 Report to the Virginia General Assembly, the results for 2006 are substantially less. The results below are all activities since 2003.

<u>Year</u>	<u>Tires Removed</u>	<u>Cost</u>
2003	1,657,000	\$ 1,349,525
2004	369,000	\$ 369,128
2005	4,149,200	\$ 8,896,711
2006	<u>344,600</u>	<u>\$ 881,364</u>
Totals	6,519,800	\$11,497,119

Financial Management

The 2003 fee increase was designed to provide \$7,800,000 over its 3-year life to clean up an estimated 4,500,000 tires. Since 2003, DEQ has cleaned up 6,519,800 tires and spent \$11,497,118 but has collected only \$7,657,491 in revenue. While the \$3,839,628 difference was paid from deposits to the Waste Tire Trust Fund prior to 2003, this level of expenditure over income could not be sustained by the Waste Tire Trust Fund. The Fund balance as of April 30, 2006, was \$79,923.

While the 2006 fee extension will provide additional revenue, DEQ will not be able to commence additional cleanups until sufficient cash balances have accrued. DEQ is preparing a Cash Flow projection through 2009 to effectively manage cash resources and expenditures for both the Base Program and cleanup efforts. Coupled with accurate tire pile size projections, this planning will allow DEQ to establish contracts to complete all work within a region and have the cash resources on hand to fund contracted work. Once the statewide re-survey of all remaining piles is complete, DEQ will be better able to determine the number of tires remaining and the total cost to abate all sites.

WASTE TIRE PILE CLEANUPS IN VIRGINIA-2006

I. Introduction

This represents the fourth in a series of annual reports to the General Assembly on the progress made by DEQ in cleaning up waste tire piles, using increased fees provided by the 2003 General Assembly. This report provides details on 2006 activities, briefly reviews the work and quantifies the results since 2003 and discusses the cleanup work to be achieved in future years.

II. 2006 Activities

A. Clean Sweep 2006

As noted in the 2005 Report to the Virginia General Assembly, DEQ began “Clean Sweep” in late 2004. It was a state-wide, multi-contractor effort to rid Virginia of the remaining 280 tire piles by mid-2006. The following contractors were selected by competitive bid:

- Richmond/Central Virginia Areas- Tri-Rinse, St. Louis, MO
- Northern Virginia Areas- REMAC America, Potomac, MD
- Tidewater Areas- Tri-Rinse, St. Louis, MO
- Valley/Central/Southside Areas- Emanuel Tire of Virginia, Appomattox County
- Western/Southwestern Areas- U.S. Tire, Concord, NC

By mid-2005, work was proceeding well with all 5 contractors. However, by October 2005, it became clear that there would be insufficient funds in the Waste Tire Trust Fund to complete all tire piles covered by these contracts. The primary reason was that most tire pile sizes had been underestimated; the average overage was 156%, with one topping 1,200%. The work could not be completed with the dollar amounts in the 5 contracts.

Accordingly, on November 1, 2005, all contracted cleanup work was suspended. All 5 contractors were notified to suspend all services and not to begin the cleanup of any additional piles. On November 1, however, several of the contractors were in the midst of cleanups which had to be completed to avoid incomplete work sites. Three piles were of sufficient size to necessitate amendments to the fixed sum contracts in order to complete removal of those piles; the other work was finished under existing contract terms. The last of the eleven projects was completed on April 7, 2006. In total, Clean Sweep had addressed a total of 148 piles, leaving 132 unabated.

Most of the progress under Clean Sweep was quantified in the 2005 Report to the General Assembly. The activities for 2006 quantified below include the work completed between November 2005 and April 2006 to finish cleanup that were underway:

<u>2006 Activities</u>	<u>Tires Removed</u>	<u>Cost</u>
Post-suspension cleanups	344,600	\$881,755

B. 2006 General Assembly Action

The increased tire recycling fee of \$1 per tire was set to expire on June 30, 2006. Recognizing the insufficient resources in the Waste Tire Trust Fund to remove the remaining known tire piles, the 2006 General Assembly adopted legislation to extend the \$1 recycling fee until June 30, 2008. This legislation is contained in Chapter 407 of the 2006 Acts of the Assembly (See Appendix 1 for the text of this legislation). This extension is estimated to provide an additional \$5 million during the 2006 through 2008 fiscal years to continue the tire pile cleanup process.

C. Planning and Ancillary Activities

Even with the extended fee, it will take a significant time for the Waste Tire Trust Fund to accumulate sufficient funds to re-issue Clean Sweep contracts (see Financial Management section below). Accordingly, during the remainder of 2006, DEQ pursued the following planning and low cost ancillary activities to support future clean up work:

- Letters were sent to owners of piles not reached under Clean Sweep explaining the situation. (See Appendix 2);
- New field surveying techniques were developed to arrive at more accurate estimates of tire pile sizes. (See Appendix 3);
- Temporary staff were hired to re-survey existing known tire piles. Ninety four surveys have been undertaken since August 2006 and all work should be completed by the end of 2006.
- A contract to conduct a soils study on the Lee Farm tire pile site in Caroline County was entered into with Virginia Tech. Final site closure will require containment to minimize any acidic runoff.
- Preparations were made to restore the Holmgaard cleanup site in Patrick County. Final closure will require partial filling of a ravine where tires were extracted.

- The cleanup of two piles in Alleghany County was re-bid. In the Clean Sweep process, these tires had been gathered from multiple scattered locations but the processing was not undertaken.
- A multi-year plan to balance cleanup work and Base Program activities with available revenues was created.

III. 2003-2006 Program Results

The 2003 Report to the General Assembly documented DEQ’s 10-year history of tire pile cleanups. The 2003 fee increase gave DEQ more resources to take more aggressive actions. First, in 2003, End User Reimbursement payments for cleanup of tire piles were doubled to \$100 per ton (\$1 per tire) and a plan to cleanup the 5 largest remaining piles (“Big 5 Plan”) was initiated. In 2004, the Big 5 Plan was completed and \$100 reimbursements continued. In 2005, two significant piles were addressed individually and Clean Sweep began. The 2006 activities and results are reported above.

Together, these activities and projects have had the following results:

		<u>Tires Removed</u>	<u>Cost</u>
2003	\$100 per ton & Big 5	1,657,000	\$1,349,525
2004	\$100 reimbursements	369,000	\$ 369,128
2005	Lee Farm, TRI & Clean Sweep	4,149,200	\$8,896,711
2006	Post-suspension Clean Sweep	<u>344,600</u>	<u>\$ 881,755</u>
	Total	6,519,800	\$11,497,119

IV. Financial Management

It should be noted that all additional funds from the increased fee have gone only to direct cleanup costs. All other DEQ costs of competitive bidding, financial and contract administration, field verification of work and on-going compliance and enforcement activities have been funded from the “Base Program,” which funds all other DEQ waste tire management activities.

The 2003 fee increase was designed to provide \$7,800,000 over its 3-year life to clean up an estimated 4,500,000 tires. Since 2003, DEQ has cleaned up 6,519,800 tires and spent \$11,497,118 but has collected only \$7,657,491 in revenue. While the \$3,839,628 difference was paid from deposits to the Waste Tire Trust Fund prior to 2003, this level of expenditure over income could not be sustained by the Waste Tire Trust Fund. This situation resulted in insufficient funds being available to continue Base Program activities in the long term.

At the time of the Clean Sweep suspension, none of the 5 contractors had cleaned up all of the piles under their respective contracts. Three of the contracts had to be increased past their dollar limit to complete piles where cleanup work had begun, but had not been completed. Those payments led to a critical cash flow situation; the Trust Fund

Balance on April 30, 2006, was \$79,923. For the Trust Fund to remain solvent, payments for End User Reimbursement applicants had to be delayed for up to eight weeks in some cases. (See Appendix 4)

At the time of this report, the Trust Fund Cash Balance is \$1,349,404. Of this amount, 50% is available for Base Program expenses and \$441,176 is obligated to existing pile cleanup obligations. This means that as of November 1, 2006, \$233,526 is the amount available in the Waste Tire Trust Fund for new cleanup efforts.

While the 2006 fee extension will provide additional revenue for tire pile clean ups, DEQ does not intend to commence additional tire pile cleanups until sufficient cash balances have accrued. DEQ is preparing a cash flow projection through 2009 to better manage cash resources for both the Base Program and pile cleanups. Coupled with accurate tire pile size projections, cash flow planning will allow DEQ to establish contracts to complete all work within a region and have the dedicated cash resources to fund the work. In addition, DEQ will separate the \$1.00 per tire revenue (50% for cleanups and 50% for Base Programs) so that the continuation of on-going activities such as the End User Reimbursement Program, will be assured.

V. Conclusion

Since 2003, DEQ has used the extra revenue to address the largest and most egregious tire piles. Of the 339 piles in Virginia in 2003, over 180 still remain to be cleaned up. Most of the remaining piles are much smaller, though several remain difficult to address due to terrain and access. Once the statewide re-survey of all remaining piles is complete, DEQ will be better able to determine the number of tires remaining and the total cost to abate all sites.

Appendix 1

CHAPTER 407

An Act to amend and reenact § [58.1-641](#) of the Code of Virginia, relating to the tire recycling fee.

[H 522]

Approved March 31, 2006

Be it enacted by the General Assembly of Virginia:

1. That § [58.1-641](#) of the Code of Virginia is amended and reenacted as follows:

§ [58.1-641](#). Imposition of tire recycling fee.

There is hereby levied and imposed upon every retailer of tires in the Commonwealth, in addition to all other taxes and fees of every kind now imposed by law, a tire recycling fee of \$.50 for each new tire sold by such retailer ending July 1, 2003. Beginning July 1, 2003, and ending July 1, ~~2006~~ 2008, such fee shall be levied and imposed at a rate of \$1.00 for each new tire sold by a retailer. Beginning July 1, ~~2006~~ 2008, the fee shall be levied and imposed at a rate of \$.50 for each new tire sold by a retailer.

Appendix 2

April 4, 2006

Dear Property Owner:

Thank you for agreeing to participate in the Virginia tire pile cleanup program and for signing the Site Access Agreement giving us access to your property.

Unfortunately, funds to pay for this effort have been exhausted and we will not be able to cleanup your site at this time. Most piles cleaned up-to-date have been much larger than estimated (150% on average) and removal costs have increased significantly. Because of this combination of factors, you and 135 other Virginians cannot be accommodated at this time.

Fortunately, the 2006 General Assembly enacted legislation to provide DEQ additional funding for additional cleanups over the next 2 years. While we should be able to address your pile, I can not now give you a firm date, as we have to accumulate funds to pay back loans and bid new contracts to complete the work. Hopefully, work can begin in 2007 and be completed state-wide by late 2008.

We truly regret that this situation has arisen. The information on your site and your Site Access Agreement will remain on file and we will re-contact you when we have a firm idea on when the cleanup of your property can begin.

If you need further information, please contact me at (804) 698-4215, by e-mail at arlassiter@deq.virginia.gov or by mail at the address above.

Sincerely yours,

R. Allan Lassiter, Jr.

Manager, Waste Tire Program

Appendix 3

TIRE PILE SURVEY	
Date:	Inspector:
1. Common name given to the site or the owners last name:	
2. Name of jurisdiction:	
3. FIPS code for the jurisdiction: Consecutive number for jurisdiction:	
4. Name and address of the owner:	
5. Address of the pile:	
6. Operator, if different from owner:	
7. Pile created without owner permission or knowledge? Y N:	
8. Was police report filed? Y N attach copy if available	
9. If no police report, attach statement, by owner, of unauthorized dumping	
10. Name of the USGS quad sheet , (topozone.com):	
11. Road access is 11 feet wide with no sharp turns No access Fair access Good access	
12. What is the average height expressed in feet?	
13. Estimated number of tires: [see estimation form]:	
14. Underground utility lines within 200 feet?	
15. Overhead line within 100 feet?	
16. Is there evidence of dumping in last three months?	
17. What percentage of other wastes is mixed with the tires?	
18. % of tires on rims:	
19. What is the average grade for the site?	
20. What is the LAT/LONG?	
Directions from a major road or landmark:	

For Auto Salvage / Used Vehicle Parts Facilities

Storm water Permit (VPDES) #: _____

Date of Issue: _____

DMV License / Permit #: _____

Date of Issue: _____

Mercury Switch Program Participant: Yes _____ No _____

Tire Pile Classification

	ACCESS	AV. GRADE	SCATTER PATTERN	CO- MINGLE FACTOR
CLASS I	GOOD	0 – 10%	IN PILES	NONE
CLASS II	FAIR	10 – 25%	SOME SCATTER	SOME
CLASS III	POOR	25 – 45%	SCATTERED	MAJOR
PART B	VERY POOR	> 45%	N/A	N/A

This pile classified as: CLASS I II III

Appendix 4

April 2, 2006

Dear End User Reimbursement Applicant;

Due to a severe cash flow condition in the Waste Tire Trust Fund, we are not able to process for payment your recently submitted Application (FORM DEQ-EURR) at the current time. Section 9VAC20-150-130. D of the Waste Tire End User Regulation stipulates that DEQ can suspend such payments when “available funds” are exhausted, but resume them in the order received once funding is available.

We anticipate that such funding will be available by late May, and thus your payment can be authorized approximately 6 weeks from today’s date. You do not need to reapply; your application will be held by DEQ staff and processed once the funds become available.

As tire recycling fees are paid quarterly by tire retailers, occasionally such cash flow situations arise. This situation last arose in 1998, so it is infrequent. Receipts received by DEQ in late May should allow all future payments to be made in the regular manner through the end of this fiscal year and beyond.

We regret this situation has arisen and ask for your cooperation and patience.
Thank you.

Sincerely yours,

R. Allan Lassiter, Jr
Manager, Waste Tire Program