

**Draft**

**Preliminary Performance Review**

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**WASTE TIRE FUND**

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**Successful Remediation of an Estimated  
4.3 Million Waste Tires Allows Waste Tire  
Remediation Funding to be Used to  
Create Waste Tire Processing Facilities**



**May 2003  
PE03-01-276**

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John Sylvia  
Director

May 4, 2003

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
Weirton, West Virginia 26062

The Honorable J. D. Beane  
House of Delegates  
Building 1, Room E-213  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a *Preliminary Performance Review of the Motor Vehicle Dealers Advisory Board*, which will be presented to the Joint Committee on Government Operations on Sunday, May 4, 2003. The issue covered herein is "Motor Vehicle Dealers Advisory Board Provides a Beneficial Service to the Commissioner of the Division of Motor Vehicles."

We transmitted a draft copy of the report to the Motor Vehicle Dealers Advisory Board on April 21, 2003. We held an exit conference with the Advisory Board on April 22, 2003. We received the agency response on April 22, 2003.

Sincerely,

Handwritten signature of John Sylvia in cursive script.  
John Sylvia

JS/wsc

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*Joint Committee on Government and Finance*

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# Executive Summary

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**Issue 1: The Successful Remediation of an Estimated 4.3 Million Waste Tires allows Waste Tire Remediation Funding to be used to create Waste Tire Processing Facilities.**

The Waste Tire Fund has remediated 4.3 million tires across the state. The Waste Tire Fund was designed to remediate waste tire piles across the state. The fund's revenue was generated through the \$5 fee for each certificate of title issued through the Department of Motor Vehicles. With the \$5 fee in place upon completion of the Waste Tire Fund at the end of 2003 there will be a remaining balance of \$5 million left. The Fund's statute was amended during the Regular Session to permit it to pay for debt service bonds issued by the Water Development Authority to finance infrastructure projects related to waste tire processing facilities that have a capital cost of not less than \$300 million.

## **Recommendation 1**

*The Legislative Auditor recommends that the Waste Tire Fund be continued.*





# Review Objective, Scope, and Methodology

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This is a Preliminary Performance Review of the Waste Tire Fund which is required and authorized by the West Virginia Sunset Law §4-10-5 of the West Virginia *Code*, as amended. The Fund was created to address the excess tire piles that have occurred across the state and responsible for the remediation of them. Remediation as defined in §7-24-2 of the West Virginia *Code* states: the removal of all tires located above grade at a site and may include, the removal of the solid waste incidental to the removal of waste tires as a site; provided that the remediation does not include clean up of hazardous waste.

## **Objective**

The objective of the report is to determine if the Waste Tire Fund has successfully identified and remediated all waste tire piles across the state.

## **Scope**

The scope of this evaluation covers the time period of 2000 to the year end of 2003.

## **Methodology**

The methodology for this report included reviewing all contracts that have been set with independent companies for remediation of waste tire piles, various reports produced by the Waste Tire Fund which were presented to the 2003 Legislature as well as interviews and correspondence with the Division of Highways. Every aspect of this review compiled with Generally Accepted Auditing Standards (GAGAS).



# Issue 1

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## **The Successful Remediation of an Estimated 4.3 Million Waste Tires allows Waste Tire Remediation Funding to be used to create Waste Tire Processing Facilities.**

*The Fund receives approximately \$3.6 million a year which comes primarily from a \$5 fee collected by the Division of Motor Vehicles (DMV) for every certified title issued.*

The Waste Tire Fund was created in 2000 to devote greater resources towards the remediation of waste tire piles in the state. The Fund receives approximately \$3.6 million a year which comes primarily from a \$5 fee collected by the Division of Motor Vehicles (DMV) for every certified title issued. The Fund was established to remediate all waste tire piles identified as of June 1, 2001 by the Department of Highways (DOH). There were originally 201 piles identified. The DOH expects to remediate the identified tire piles by the end of 2003. Once completed, an estimated 4.3 million waste tires will have been remediated. **In anticipation of the completed remediation, the Legislature passed Senate Bill 649 during the 2003 regular session to amend the use of the Waste Tire Fund. After the identified piles are remediated, the funding will be used to pay for debt service on bonds issued by the Water Development Authority to finance infrastructure projects related to developing waste tire processing facilities.** Tire piles that are currently found will have to be disposed of through the Department of Environment Protection's solid waste program or recycled by processing facilities that may develop in the future.

### **Financial Activity**

According to WVC B17-24-6(a), the Fund's revenue sources are to include proceeds from the sale of waste tires; money collected by the Division of Motor Vehicles (DMV) from the \$5 fee for every certified title issued; any federal, state, or private grants; legislative appropriations; loans and other funding available for waste tire remediation. However, the fund receives practically all of its revenue from the \$5 DMV fee. The DMV began collecting the \$5 fee for each certificate of title issued by the state after July 1, 2000. The fee generates approximately \$3.6 million a year. From July 1, 2000 to January 6, 2003 the fund received over \$8.7 million. Annual ending balances stay in the Fund and are carried over to the next fiscal year and shall not revert to the state treasury. The passage of Senate Bill 649 this past legislative session states that the Fund will not be used to remediate waste tires after all waste tire piles identified on June 1, 2001 have been remediated. After completion of the remediation, the Fund will be used to pay for infrastructure bonds issued by the Water Development Authority to develop waste tire processing facilities. Waste tire funds will cease to be collected once infrastructure bonds for waste tire processing facilities have been paid in full.

Since the Fund was created, it has experienced increasing balances every fiscal year (see Table 1). When asked why the Fund has such a large balance, the Department of Highways provided the following explanation:

*If the estimate of the total number of tires and the average cost had been correct the total cost of remediation for the whole state would have been \$30-36 million. The fund was originally estimated to generate \$3.6 million per year. Thus the time to completely remove and dispose of the waste tires would have taken ten years. With this in mind it was determined to allow the fund to accumulate to an amount that would prevent any cash flow deficiencies once the cleanup of the large piles was begun.*

**Table 1**  
**Waste Tire Fund Activity, FY 2001-2003**

<b>Fiscal Year</b>	<b>Total Expenditures</b>	<b>Total Revenue</b>	<b>Ending Balance</b>
<b>2001</b>	<b>\$1,117,313</b>	<b>\$3,273,765</b>	<b>\$2,156,452</b>
<b>2002</b>	<b>\$901,666</b>	<b>\$3,638,346</b>	<b>\$4,893,131</b>
<b>2003*</b>	<b>\$515,436</b>	<b>\$1,815,714</b>	<b>\$6,193,409</b>
<b>* Amounts for 2003 are from 7/1/02 to 1/6/03</b>			

*The Department of Highways expects to have all of the tire piles remediated by the end of calendar year 2003.*

The Department of Highways expects to have all of the tire piles remediated by the end of calendar year 2003. It is projected that approximately \$4,500,000 in expenditures will be required to complete all remaining remediation. If the \$5 fee is collected throughout the 2003 calendar year generates \$2,190,000, then the remaining balance will be approximately \$5 million.

### **Waste Tire Fund Remediation Procedure**

The DOH must follow certain procedures, as stated in WVC B17-24-7, before the Waste Tire Fund can be used. The DOH is required by the law to notify the property owners in an attempt to rectify the problem of existing waste tire piles on their property. The property owner may remediate the waste tire pile under a compliance schedule acceptable by the Commissioner. Many property owners have chosen this avenue to remediate their waste tire piles. If the property owner does not rectify the situation, then the State assumes responsibility for the pile and initiates remediation through the Waste Tire Fund.

A lien is then placed against the property for the cost of the cleanup. The DOH may foreclose on property by bringing civil action in circuit court if the landowner is unable or refuses to reimburse the Fund. However, according to the DOH, it hasn't place any liens on properties remediated through the Fund nor has it foreclosed on any properties.

### **Amnesty Program**

The Division of Highways established an amnesty program to increase public awareness of the problems of waste tires and to remove as many waste tires as possible from the state. The program allowed citizens to bring up to 50 passenger car or light truck tires for disposal to one of 78 Division of Highways facilities across the state. Two amnesty tire collections took place. The first was August 12 to October 28, 2000 where 545,145 tires were disposed at a cost of \$1,012,954. The next collection took place during April 22 to 27, 2002 where 518,225 tires were disposed at a cost of \$1,179,125. A new amnesty program is scheduled for April 21 to April 26, 2003. The estimated cost for completing this collection is \$1,250,000.

### **4.3 Million Tires Have Been Remediated**

Since the inception of the Waste Tire Fund, nearly 4.3 million tires have been remediated. Approximately 2 million tires were remediated through the amnesty program, another 2 million through contracts, and 173,000 tires were remediated from small piles (see Table 2).

**Table 2**  
**Total Number of Tires Collected, 2000 - 2003\***

<b>Calendar Year</b>	<b>Amnesty</b>	<b>Contracts</b>	<b>Small Piles</b>
2000	545,145	0	0
2001	0	0	80,000
2002	518,225	500,000	90,000
2003	1,000,000	1,554,100	3,000
<b>Totals</b>	<b>2,063,370</b>	<b>2,054,100</b>	<b>173,000</b>
* The numbers for 2003 are estimates. Also, the numbers for contracts and small piles are estimated based on tonnage weight.			

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## Health Issues of Waste Tire Piles

*Tire piles are notorious for collecting water that becomes stagnate and are breeding grounds for mosquitos and mosquito-born illnesses such as West Nile Virus, Malaria and Encephalitis.*

Tire piles are notorious for collecting water that becomes stagnate and are breeding grounds for mosquitos and mosquito-born illnesses such as West Nile Virus, Malaria and Encephalitis. A tire pile, located in Marion County, was found to be a particular problem due to the occurrence of West Nile Virus found only two miles from this site. The owner submitted a five-year plan to remediate this pile. In this instance, the plan was rejected due to the public health issues and the need to remove the tires as quickly as possible. The revised plan was to monitor the piles by spraying them for pest control while removing the tires at an accelerated rate. The Division of Highways, the Department of Environmental Protection, and the Health Department will monitor this site to insure that the remediation plan is followed.

## Conclusion

The DOH plans to complete the remediation of all waste tire piles, as identified on June 1, 2001 by the end of 2003. Expenditures from the Fund have caused the remediation of almost 4.3 million tires throughout the State. It is anticipated that there should be approximately \$5 million left in the Fund at the end of 2003, when all remediation is complete. The Fund's statute was amended during the 2003 Regular Session to permit it to pay for debt service on bonds issued by the Water Development Authority to finance infrastructure projects related to waste tire processing facilities that have a capital cost of not less than \$300 million. Tire piles that are identified after 2003 will have to be disposed through the DEP's solid waste program. It is hoped that waste tire processing facilities will develop that will alleviate future tire piles.

## Recommendation 1

*The Legislative Auditor recommends that the Waste Tire Fund be continued.*

# Appendix A: Transmittal Letter to Agency

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John Sylvia  
Director

Date April 10, 2003

Fred Van Kirk, Commissioner  
Division of Highways  
Building 5, Room 109  
1900 Kanawha Blvd., East  
Charleston, WV 25304-0330

Dear Commissioner Van Kirk:

This is to transmit a draft copy of the Preliminary Performance Review of the Waste Tire Fund. This report is scheduled to be presented to the Joint Committee on Government Operations on May 4th. When we are aware of the time and location we will notify your agency. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have. We need your written response by noon on April 18, 2003 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, May 1st, to make arrangements.

We request that your personnel treat the draft report as confidential and that it not be disclosed to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.  
John Sylvia

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*Joint Committee on Government and Finance*

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# Appendix B: Agency Response

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WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
**Division of Highways**

1900 Kanawha Boulevard East • Building Five • Room 110  
Charleston, West Virginia 25305-0430 • 304/558-3505

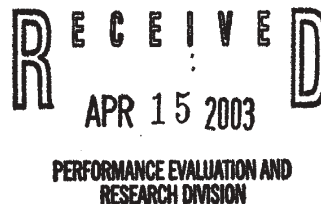
Bob Wise  
Governor

Fred VanKirk, P. E.  
Secretary/Commissioner

Jerry Bird  
Assistant Commissioner

April 10, 2003

Mr. John Sylvia  
West Virginia Legislature  
Performance Evaluation and Research Division  
Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610



Dear Mr. Sylvia:

As requested in your letter, dated April 10, 2003, the draft copy of the Preliminary Performance Review of the Waste Tire Fund has been reviewed by the appropriate West Virginia Division of Highways personnel and the draft has been found to be acceptable.

A Division of Highways representative will be available at the meeting of the Joint Committee on Government Operations to respond to the report and answer any questions they may have.

If we may be of further help please advise.

Very truly yours,

A handwritten signature in black ink, appearing to read "Fred Van Kirk".

Fred VanKirk, P. E.  
Secretary/Highways Commissioner

FV:Tkh

