

PROGRESS REPORT:
FEE COLLECTION IN THE
WASTE TIRE MANAGEMENT PROGRAM

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY



PERFORMANCE AUDIT SERVICES
ISSUED JULY 10, 2019

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

July 10, 2019

The Honorable John A. Alario, Jr.,
President of the Senate
The Honorable Taylor F. Barras,
Speaker of the House of Representatives

Dear Senator Alario and Representative Barras:

This report provides the results of our follow-up audit of the Louisiana Department of Environmental Quality's (LDEQ) oversight of the Waste Tire Management Program (WTMP). Specifically, we evaluated whether LDEQ had addressed issues identified in our July 2014 performance audit related to the collection of waste tire fees for the Waste Tire Management Fund and whether those fees were enough to cover the program's costs.

We found that LDEQ has made progress toward addressing the eight recommendations in our 2014 audit. As of June 2019, the Department had fully implemented four recommendations, was in the process of implementing three recommendations, and had partially implemented one recommendation.

However, we identified areas where LDEQ could further improve its oversight of the WTMP. For example, the Department has implemented a new module of LaGov that identifies waste tire generators that do not submit their fees and reports each month, but it does not have an accurate list of active generators. That means LDEQ cannot ensure it is identifying all noncompliant generators and collecting all monies owed to the state.

In addition, while LDEQ has identified 933 generators that submitted late reports or fees and assessed \$202,840 in penalties since implementing the LaGov module in April 2018, limitations with LaGov resulted in an additional \$8,629 in late fees not being assessed. LDEQ also does not yet have a process to use LaGov to pursue the collection of tire fees and associated late fees from generators that do not pay their waste tire fees on time.

We found as well that the Department increased the number of waste tire generators it audited from 60 (2.6 percent) of 2,299 during fiscal year 2013 through 90 (3.7 percent) of 2,451 in fiscal year 2018. In addition, LDEQ is gathering historical payment data that will enable it to prioritize its audits based on those generators with a higher risk of remitting incorrect fee amounts. Of the 340 audits conducted during fiscal years 2014 through 2018, LDEQ identified

The Honorable John A. Alario, Jr.,
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Speaker of the House of Representatives
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unpaid fees in 261 (76.8 percent) instances and assessed approximately \$1.4 million in tire fees, interest, and late fees.

The Waste Tire Program Task Force, which had not met at all at the time of our 2014 report, met 19 times during fiscal years 2015 through 2019. During those meetings, Task Force members addressed agenda items such as waste tire regulations, the waste tire program fee structure, and potential new end-use markets for waste tire material.

Finally, we found that during fiscal years 2014 through 2018, the amount of fees the Department collected for the Waste Tire Management Fund did not cover the costs associated with the WTMP. According to LDEQ, it was able to use funds from the Environmental Trust Fund to cover the difference.

I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of LDEQ for their assistance during this audit.

Sincerely,



Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE



Progress Report: Fee Collection in the Waste Tire Management Program

Louisiana Department of Environmental Quality

July 2019

Audit Control # 40180030

Introduction

We evaluated the Louisiana Department of Environmental Quality's (LDEQ) progress toward addressing issues identified in our July 2014 performance audit on fee collection in the Waste Tire Management Program (WTMP).¹ Our 2014 audit evaluated LDEQ's enforcement of WTMP requirements to ensure that the state receives complete, accurate, and timely waste tire fees. In our 2014 audit, we found that LDEQ did not have an effective process to identify and follow up with generators that were not submitting waste tire reports and fees in accordance with program requirements. We also found that LDEQ was not penalizing noncompliant generators. Finally, we found that the Waste Tire Program Task Force, created during the 2013 Regular Legislative Session, had never held a meeting. In our 2014 audit, we had five findings and made eight recommendations to assist LDEQ in improving its management of the WTMP.²

The goal of the WTMP is to reduce or eliminate illegal tire dumps by providing subsidies to waste tire processors that receive and process eligible waste tires for use in recycling projects approved by LDEQ, such as using tire materials for alternative fuel or engineering projects.

Louisiana's Solid Waste Recycling and Reduction Law³ created the WTMP in 1989. A waste tire generator (generator) is a business that generates waste tires as part of its operations, including businesses that sell tires, such as Firestone, Sears, and Walmart. According to LDEQ, 2,451 generators were registered to operate during fiscal year 2018. Generators are required to collect waste tire cleanup and recycling fees (waste tire fees) from consumers on each tire sold and submit a report with the collected fees to LDEQ each month (see fee schedule on left).⁴ LDEQ then deposits these fees into the Waste Tire Management Fund (waste tire fund) which is used to fund the WTMP's operations, including payments to waste tire processors, and LDEQ's costs to administer the program. Waste tire processors receive waste tires from generators and are paid by LDEQ from the waste tire fund for tires they processed and recycled. As of May 2019, Louisiana

Waste tire fees:

- \$2.25 per passenger/light truck/small farm service tire
- \$5 per medium truck tire
- \$10 per off-road tire

Source: R.S. 30:2518

¹ Our 2014 performance audit on the WTMP can be found on our website at

[https://www.la.gov/PublicReports.nsf/D278F828BAA4F57286257D250047BC33/\\$FILE/00002095.pdf](https://www.la.gov/PublicReports.nsf/D278F828BAA4F57286257D250047BC33/$FILE/00002095.pdf).

² A summary of the findings, recommendations, and LDEQ's progress toward addressing these issues can be found in Appendix C.

³ Act 185 of the 1989 Regular Legislative Session, Louisiana Revised Statute (R.S.) 30:2411, *et seq.*

⁴ Louisiana Administrative Code (LAC) 33:VII §10519

has four waste tire processors permitted by LDEQ to operate five facilities. During fiscal years 2014 through 2018, LDEQ collected approximately \$57.2 million in waste tire fees and paid approximately \$49.9 million to waste tire processors. LDEQ is allowed to keep a maximum of 10% of the fees for administrative costs, including salaries for five staff⁵ dedicated to the WTMP.

In addition, Act 530 of the 2018 Regular Legislative Session provides that the legislative auditor conduct performance audits on statutory dedications that include a fee for service at least once every four years. The purpose of these audits is to determine if the fees collected are adequate to cover the costs associated with the services. In accordance with this legislative mandate, we evaluated the revenues and expenses associated with the Waste Tire Management Fund.

The objectives for this performance audit were to:

- 1. Determine whether LDEQ addressed the issues identified in our July 2014 performance audit on fee collection in the Waste Tire Management Program (pages 3-10).**
- 2. Determine if the fees associated with the Waste Tire Management Fund are adequate to cover the costs associated with the program (pages 11-12).**

Overall, we found that LDEQ has made progress toward addressing the issues identified in the 2014 audit. As of June 2019, LDEQ fully implemented four recommendations, is in the process of implementing three recommendations, and partially implemented one recommendation. However, we identified areas where LDEQ could further improve its oversight of the WTMP to ensure that the state receives complete, accurate, and timely waste tire fees. In addition, during fiscal years 2014 through 2018, we found that fees collected by LDEQ for the WTMP were not adequate to cover the costs associated with the program.

The issues we identified are discussed in detail throughout the remainder of the report. Appendix A contains LDEQ's response to the report, and Appendix B details our scope and methodology. Appendix C provides a list of the findings and recommendations from our 2014 performance audit and the implementation status of each recommendation.

⁵ Includes one part-time employee

Objective 1: Determine whether LDEQ addressed the issues identified in our July 2014 performance audit on fee collection in the Waste Tire Management Program.

Overall we found that LDEQ has made progress toward addressing the issues identified in our 2014 audit. As of June 2019, LDEQ fully implemented four recommendations, is in the process of implementing three recommendations, and partially implemented one recommendation. However, we identified areas where LDEQ could further improve its oversight of the WTMP to ensure that the state receives complete, accurate, and timely waste tire fees. Specifically, we found the following:

- **LDEQ has implemented a new module of LaGov that identifies generators that do not submit waste tire fees and reports each month as required by state law. However, because LDEQ does not have a complete and accurate list of active generators, it cannot ensure that it identifies all noncompliant generators and collects all waste tire fees.** According to LDEQ, it does not yet have a complete and accurate list of generators, in part, because it has reduced staffing levels for the Waste Tire Division since 2014 and the volume of generators in the waste tire universe makes it difficult to ensure that all comply with self-reporting and closure notification requirements in a timely manner.
- **Since implementing the LaGov module in April 2018, LDEQ has identified 933 generators that submitted late reports or tire fees and assessed \$202,840 in late fees. However, limitations with LaGov resulted in LDEQ not assessing generators an additional \$8,629 in late fees.** In addition, LDEQ has not yet established a process using LaGov to pursue the collection of tire fees and associated late fees from generators that did not pay waste tire fees on time.
- **LDEQ increased its audit coverage by 40.7%, from 60 (2.6%) of 2,299 waste tire generators in fiscal year 2013 to 90 (3.7%) of 2,451 waste tire generators in fiscal year 2018. In addition, LDEQ is gathering historical payment data in LaGov that will enable it to prioritize its audits based on those generators that have a higher risk of remitting incorrect fee amounts to the state.** Of the 340 audits conducted during fiscal years 2014 through 2018, LDEQ identified unpaid fees in 261 (76.8%) audits and assessed approximately \$1.4 million in tire fees, interest, and late fees.
- **The Waste Tire Program Task Force met 19 times during fiscal years 2015 through 2019 to study program operations and make recommendations for improvements as required by state law.** During these meetings, Task Force members addressed agenda items such as waste tire regulations, the waste tire program fee structure, and potential new end-use markets for waste tire material.

These issues and recommendations on how LDEQ could further strengthen its oversight of the WTMP are summarized in more detail in the following sections.

LDEQ has implemented a new module of LaGov that identifies generators that do not submit waste tire fees and reports each month as required by state law. However, because LDEQ does not have a complete and accurate list of active generators, it cannot ensure that it identifies all noncompliant generators and collects all waste tire fees.

Waste tire generators are required by state regulations⁶ to remit waste tire fees and waste tire fee reports to LDEQ by the 20th of each month for the previous month's tire sales. These regulations require generators to submit waste tire fee reports every month even if no tires were sold and no fees were collected. In our 2014 audit, we found that LDEQ did not have an effective process to identify and follow up with generators that were not submitting waste tire fees and reports in accordance with program requirements. In April 2018, LDEQ began using the LaGov Sales and Distributions module (LaGov) to input and track fee reports and fee payments. According to LDEQ, LaGov automatically identifies noncompliant generators and creates invoices for generators that fail to submit monthly reports and all required waste tire fees. While LDEQ has made significant progress to address the issues identified in our 2014 audit with the implementation of LaGov, we identified some issues with the process as discussed below.

Waste tire fee reports detail the number and type of tires sold to support the amount of waste tire fees remitted to LDEQ by generators.

LDEQ cannot ensure that LaGov identifies all generators that failed to submit required waste tire reports and fees for a given month because the list of generators in LaGov is not complete and accurate. During our 2014 audit, we found that LDEQ used a manual process to identify generators that did not submit fee reports. As a result, LDEQ did not have sufficient resources to identify and follow up with all noncompliant generators. Since that time, LDEQ implemented the LaGov module that can automatically create invoices for generators that did not submit waste tire fee reports. However, according to LDEQ, it has not yet sent these invoices because it has not yet compiled a complete and accurate list of the active generators that are required to submit waste tire reports.

In addition, LDEQ's list of generators is not complete as we identified at least 17 generators that were submitting fee reports or fees to LDEQ but were not listed as active generators. According to LDEQ, it does not yet have a complete and accurate list of generators because it has reduced staffing levels for the Waste Tire Division since 2014 from four to three employees,⁷ and the volume of generators in the waste tire universe makes it difficult to ensure that all comply with self-reporting and closure notification requirements in a timely manner. In addition, LDEQ has restructured the WTMP since 2014, moved the program from its Financial Services Division to its Waste Permits Division, and implemented the new LaGov module.

An inaccurate list of active generators was also an issue during our 2014 audit, in which we found that 1,454 (32.6%) of 4,464 generators failed to submit fee reports in one or more

⁶ LAC 33:VII §10519

⁷ Two employees from LDEQ's Management and Finance Division also assist with the program, for a total of five WTMP employees.

months during fiscal years 2012 and 2013. As a result, we recommended that LDEQ follow up with these generators to pursue collection of any waste tire fees due. However, according to LDEQ, some of the generators we identified were erroneously listed as active in LDEQ's system. These generators were actually inactive, and therefore were not required to submit reports.

Using the LaGov system and LDEQ's list of generators, we identified 813 (32.0%) of 2,540 generators that failed to submit fee reports for at least one month since LDEQ implemented LaGov. While some of these generators may not be active, some are. For example, we identified a waste tire generator that did not submit fees or reports during April 2018 through February 2019, but when we called this generator we were told that it was currently selling tires. This generator was also identified in our 2014 audit as not submitting waste tire fee reports for all of fiscal year 2013. Since LDEQ has been struggling with compiling a complete and accurate list of active generators since fiscal year 2014, it still cannot ensure that it is effectively monitoring all active waste tire generators to ensure they are remitting all required reports and fees.

Recommendation 1: LDEQ should ensure that it compiles and maintains a complete and accurate list of active generators that are required to submit waste tire reports and fees so that it can use LaGov to send invoices to noncompliant generators and ensure the state is receiving all waste tire fees.

Summary of Management's Response: LDEQ agrees with this recommendation and stated that WTMP staff will continue to work in conjunction with the Division of Administration and the LaGov development team to update and maintain a complete and accurate listing of active generators that are required to submit waste tire reports and fees to LDEQ. See Appendix A for LDEQ's full response.

Since implementing the LaGov module in April 2018, LDEQ has identified 933 generators that submitted late reports or tire fees and assessed \$202,840 in late fees. However, limitations with LaGov resulted in LDEQ not assessing generators an additional \$8,629 in late fees. In addition, LDEQ has not yet established a process using LaGov to pursue the collection of tire fees and associated late fees from generators that did not pay waste tire fees on time.

During our 2014 audit, we found that LDEQ did not penalize generators that failed to remit timely waste tire reports and fees to the state. Specifically, we identified 1,045 noncompliant generators during fiscal year 2013, but LDEQ only penalized one generator during this time period. According to LDEQ, during that time its process to penalize generators was cumbersome, resource intensive, and was designed for environmental violations and not for financial reporting violations. Since our 2014 audit, the legislature passed Act 633 of the 2016 Regular Legislative Session which provides a more streamlined process for LDEQ to penalize

generators that submit late tire fees or reports. State law now allows LDEQ to assess late fees of \$25 for generators that do not submit fee reports on time and \$25 or 10% of the delinquent tire fees for generators that do not pay waste tire fees on time.⁸ The LaGov system generates invoices daily for late and underpaid fees which are mailed by LDEQ to generators for payment within 30 days. As of February 2019, LDEQ has identified 933 generators with late reports or fees and assessed \$202,840 in late fees since implementing the LaGov module in April 2018.

Because of a limitation in the LaGov module, when generators submit their waste tire reports on time but send the related payment late to LDEQ, the system does not automatically assess late fees. As a result, LDEQ did not assess generators \$8,629 in late fees during April 2018 through February 2019.⁹ Specifically, we found that a coding issue causes LaGov to not consider these generators as late. For example, one generator submitted a fee report on time that indicated it owed \$1,930.50, but did not submit this payment. Almost a month later the generator submitted the correct payment, but LaGov did not generate an invoice for the \$193.05 late fee. Overall, this system limitation resulted in LDEQ not assessing \$8,629 in late fees during April 2018 through February 2019. LDEQ should work with Office of Technology Services (OTS) to resolve this issue.

LDEQ has not yet established a process using LaGov to pursue the collection of tire fees and associated late fees from generators that did not pay waste tire fees on time. During our 2014 audit, we found that LDEQ did not monitor whether generators were submitting reports and tire fees on time each month, and as a result approximately \$2.9 million in tire fees were remitted late. We recommended that LDEQ track the date generators submit waste tire reports and related fees so that it can ensure that generators comply with monthly deadlines as outlined in state law.

While LDEQ has begun to track this information using LaGov, we identified \$80,274 in tire fees and assessed late fees that have not been paid as of February 2019. Approximately \$43,000 (53.8%) of these fees is more than six months overdue. For example, we identified one generator that paid the required tire fees to LDEQ, but these tire fees were paid late and the generator never paid the assessed late fees and currently owes the state approximately \$2,900. While LDEQ has sent invoices to generators for the \$80,274 in unpaid fees, it has not pursued collection of these fees. According to LDEQ, prior to implementing LaGov, it had a process to follow up and collect unpaid invoices from generators. However, LDEQ has not yet developed a follow up process using LaGov because its first priority has been to address generators that do not submit waste tire fees and reports at all.

In addition, we identified approximately \$12,000 in late fees that were waived by LDEQ during April 2018 through February 2019. According to LDEQ, it waives late fees for generators that are first time offenders. However, LDEQ has not developed policies, procedures, or a supervisory review process to ensure that late fees are waived only when appropriate.

⁸ R.S. 30:2418(O)(5)

⁹ Because of limitations in the LaGov data, the exact amount of tire fees and late fees due could not be determined. Therefore, the fee amounts noted in this section are based on data provided by LDEQ.

Recommendation 2: LDEQ should work with OTS to ensure that LaGov assesses late fees when generators submit fee reports on-time but their waste tire payments are late.

Summary of Management's Response: LDEQ agrees with this recommendation and stated that it may not be feasible to have LaGov assess late fees automatically in these circumstances. However, for reports that are submitted without payment or are significantly short-paid, staff will begin manually entering the late payment fee for the balance due, even if the due date has not passed. In addition, LDEQ will discuss alternative ways to address this issue with OTS. See Appendix A for LDEQ's full response.

Recommendation 3: LDEQ should develop and implement a process using LaGov to pursue collection of delinquent tire and late fee payments from waste tire generators.

Summary of Management's Response: LDEQ agrees with this recommendation and stated that staff sent out delinquent notices in June 2019 to generators that have failed to submit reports or some of their tire or late fees and will continue to send out these notices at least three times a year. LDEQ plans to implement a process to send follow-up notices/invoices to those generators that have failed to pay their balances due within the next several months, including referrals to LDEQ's Legal Affairs Division and the Office of Debt Recovery, when appropriate. See Appendix A for LDEQ's full response.

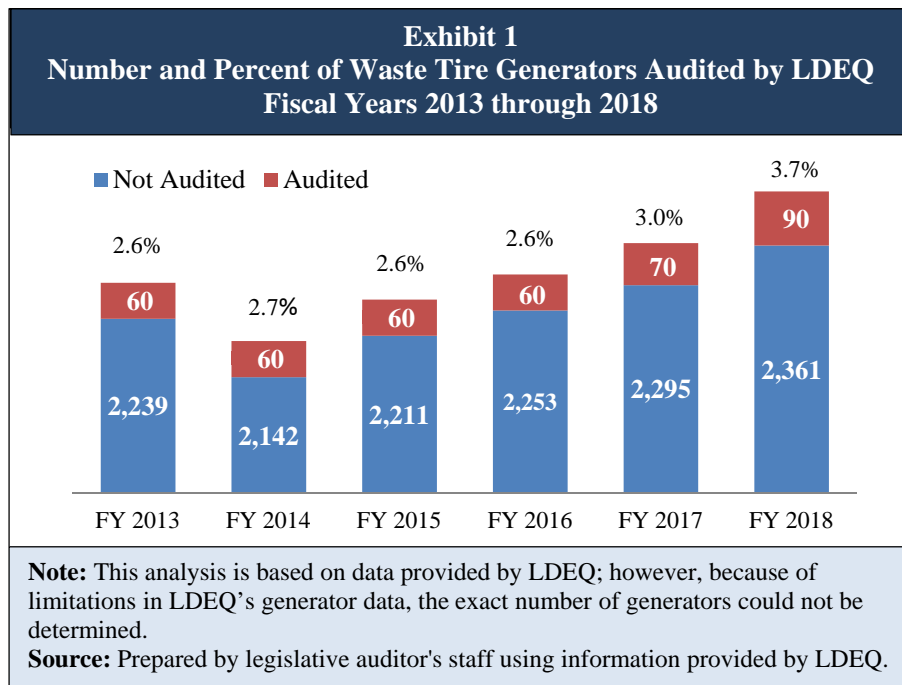
Recommendation 4: LDEQ should develop policies, procedures, and a supervisory review process to ensure that late fees are waived appropriately.

Summary of Management's Response: LDEQ agrees with this recommendation and stated that it plans to have a process for waiving late fees formalized by December 31, 2019. In addition, LDEQ stated that many of the late fees that were reversed in the system this past year were merely corrections in the system of late fees that were applied in error. As a result, LDEQ has requested that a new reason for rejection specifically called "waived" be added to LaGov to isolate waived fees from corrections. See Appendix A for LDEQ's full response.

LDEQ increased its audit coverage of waste tire generators by 40.7%, from 60 (2.6%) of 2,299 waste tire generators in fiscal year 2013 to 90 (3.7%) of 2,451 waste tire generators in fiscal year 2018. In addition, LDEQ is gathering historical payment data in LaGov that will enable it to prioritize its audits based on those generators that have a higher risk of submitting incorrect fee amounts to the state.

LDEQ's audit group consists of five staff members who are responsible for auditing waste tire generators to help ensure they report accurate waste tire fees.¹⁰ According to LDEQ, it can only determine the accuracy of the fees generators submit by reviewing onsite documentation during its waste tire fee audits. In our 2014 audit we found that LDEQ's audit coverage and selection criteria did not adequately ensure remitted fees were accurate. During fiscal year 2013, LDEQ audited 60 (2.6%) of 2,299 waste tire generators and focused on generators that did not submit reports and fees rather than those that potentially underpaid fees.

During fiscal year 2018, LDEQ audited 90 (3.7%) of 2,451 waste tire generators, which is an increase of 40.7% from the 2.6% of generators audited in fiscal year 2013 as reported in our 2014 audit.¹¹ According to LDEQ, in November 2016 it hired an internal auditor which enabled the Department to increase its audit coverage of waste tire generators because audit staff were no longer responsible for conducting internal audits. Exhibit 1 shows the number and percent of generators audited during fiscal years 2013 through 2018.



¹⁰ These auditors are also responsible for conducting audits of LDEQ's Motor Fuels Trust Fund.

¹¹ Our analysis is based on data provided by LDEQ; however, because of limitations in LDEQ's generator data as discussed previously in this report, the exact number of generators could not be determined.

Of the 340 audits conducted during fiscal years 2014 through 2018, LDEQ identified unpaid fees in 261 (76.8%) audits and assessed approximately \$1.4 million in tire fees, interest, and late fees.¹² Exhibit 2 summarizes the results of LDEQ's waste tire fees audits since our 2014 audit.

Exhibit 2 DEQ Internal Audit Waste Tire Fee Audit Results Fiscal Years 2014 through 2018					
Fiscal Year	Number of Waste Tire Fee Audits Conducted	Number of Audits with Unpaid Fees Identified	Percentage of Audits with Unpaid Fees Identified	Total Unpaid Fees Identified*	Average Unpaid Fees Identified Per Audit
2014	60	50	83.3%	\$474,749	\$7,912
2015	60	40	66.7%	218,004	3,633
2016	60	40	66.7%	146,166	2,436
2017	70	51	72.9%	202,716	2,896
2018	90	80	88.9%	402,196	4,469
Total	340	261	76.8%	\$1,443,831	\$4,247
*This amount includes estimated unpaid fees for audits not completed or reviewed by LDEQ as of April 2019 and thus may change. Note: All dollar amounts include interest and late fees assessed by LDEQ. Source: Prepared by legislative auditor's staff using information provided by LDEQ.					

In addition to increasing its audit coverage, we also recommended in our 2014 report that LDEQ revise its audit selection criteria to include more generators that potentially remit fewer fees than owed. For example, a generator might sell 500 tires, but only report and pay fees for 400 tires. At that time, LDEQ audit staff focused their efforts on auditing generators that did not remit reports and fees at all. As a result, the audit staff had less time available to audit generators that were potentially underremitting fees. According to LDEQ, identifying generators that could potentially be underremitting fees has been a challenge over the past several years because fee report information was in one database and the count of tires processed was in a separate database. Currently LDEQ is working to develop a risk-based tool that will use data from the new LaGov system to identify generators that are potentially underremitting waste tire fees.

Recommendation 5: LDEQ should continue to increase its waste tire fee audit coverage of generators as resources allow.

Summary of Management's Response: LDEQ agrees with this recommendation and stated that it will continue to seek ways of using available resources to increase the audit coverage of waste tire generators. See Appendix A for LDEQ's full response.

¹² This amount includes LDEQ estimates for audits not completed or reviewed as of April 2019 and thus may change.

Recommendation 6: LDEQ should continue to work towards using LaGov data to develop a risk-based tool to better identify generators that potentially remit fewer fees than owed to the state.

Summary of Management's Response: LDEQ agrees with this recommendation and stated that as it continues to populate LaGov with active generator data, waste tire fee report data, and manifest data vital in identifying potential under-reporters, audit staff will strive to develop a tool to better identify and prioritize generators using LaGov data. Although auditing generators that potential remit fewer fees than owed to the state has always been a priority, LDEQ acknowledges that having a means to better analyze the waste tire data universe will go a long way in helping LDEQ identify these generators for audit. See Appendix A for LDEQ's full response.

The Waste Tire Program Task Force met 19 times during fiscal years 2015 through 2019 to study program operations and make recommendations for improvements as required by state law.

Act 323 of the 2013 Regular Legislative Session created the Waste Tire Program Task Force (Task Force) with the purpose of studying and making recommendations regarding the WTMP's laws, rules, regulations, fee structure, and financial obligations. The legislation was passed and the Task Force created because, at the time, LDEQ was not able to fully pay processors for the waste tires they recycled. Act 323 designated LDEQ's Secretary as the Task Force chairman and required the Task Force to meet by August 31, 2013. However, during our 2014 audit we found that the Task Force had not met.

The Task Force has since met 19 times during fiscal years 2015 through 2019 and has issued four annual reports. During these meetings, Task Force members addressed agenda items such as waste tire regulations, the WTMP fee structure, and potential new end-use markets for waste tire material. In addition, the Task Force adopted a resolution at its December 2015 meeting which urged the legislature to pass legislation giving LDEQ authority to assess delinquent fees on generators that submit late waste tire fee reports or remit late waste tire fees. According to LDEQ staff, this resolution played an important part in the passage of Act 633 of the 2016 Regular Session that authorized LDEQ to assess late fees of \$25 for generators that do not submit fee reports on time and \$25 or 10% of the delinquent tire fees for generators that do not pay waste tire fees on time.

Objective 2: Determine if the fees associated with the Waste Tire Management Fund are adequate to cover the costs associated with the program.

During fiscal years 2014 through 2018, we found that fees collected by LDEQ for the WTMP were not adequate to cover the costs associated with the program. WTMP regulations¹³ outline the following specific uses for the Waste Tire Management Fund (waste tire fund):

- LDEQ must pay waste tire processors a minimum of \$0.075 per pound of waste tires that are recycled or reach end-use markets.
- LDEQ is allowed to keep a maximum of 10% of the waste tire fees collected for program administration.
- LDEQ may use 10% of the waste tire fees collected for the cleanup of unauthorized waste tire piles and waste tire material.

In addition to the specific uses for the waste tire fund listed above, WTMP regulations also state that LDEQ can use the revenues from the delinquent and non-reporting fees that it collects from generators for special projects. During fiscal year 2018, LDEQ used \$86,743 to partially fund the new LaGov data module.¹⁴ Exhibit 3 below shows revenues and expenses for the WTMP during fiscal years 2014 through 2018.

Exhibit 3 Waste Tire Management Program Revenues and Expenses Fiscal Years 2014 through 2018							
Category	Sub-Category	FY14	FY15	FY16	FY17	FY18	Total
Revenues	Waste Tire Fee	\$11,116,602	\$11,247,524	\$11,511,342	\$11,746,662	\$11,532,855	\$57,154,984
	Late/Non-filing Fee	0	0	0	17,794	86,743	104,537
	Interest	872	738	6,557	16,297	9,662	34,126
	Fund Sweeps*	0	(548,961)	(534,050)	(764,734)	(435)**	(1,848,180)
	Total Revenues	\$11,117,474	\$10,699,301	\$10,983,849	\$11,016,018	\$11,628,825	\$55,445,467
Expenses	Administrative***	\$1,361,345	\$1,409,161	\$1,223,022	\$1,229,380	\$1,596,267	\$6,819,176
	Processors Payments	9,889,332	9,463,647	7,156,321	11,761,294	11,632,555	49,903,148
	Total Expenses	\$11,250,676	\$10,872,808	\$8,379,344	\$12,990,674	\$13,228,822	\$56,722,324
* To resolve budget shortfalls, the legislature is authorized to sweep money from dedications and use it for purposes other than what is stated in law (R.S. 39:75). **According to LDEQ, this amount was a transfer to another LDEQ fund to adjust for an accounting error. ***Includes salaries and related benefits, travel, contract, special projects, and other administrative costs. Source: Prepared by legislative auditor's staff using information provided by LDEQ.							

¹³ LAC 33:10535

¹⁴ LDEQ used \$163,257 from its Environmental Trust Fund to cover the remaining balance.

According to financial information provided by LDEQ, the 10% of the waste tire fees it is allowed to keep to administer the WTMP was not adequate to cover its costs during fiscal years 2014 through 2018. According to LDEQ, it was able to use statutorily-dedicated funds from the Environmental Trust Fund to cover the difference. During this time, LDEQ had a total of \$1,147,450 in administrative costs that exceeded the 10% it was allowed to keep. Exhibit 4 shows WTMP administration costs that LDEQ was unable to recover during fiscal years 2014 through 2018. LDEQ's administrative costs for the WTMP mainly include salaries and benefits, but also include travel and mailing expenses.

Exhibit 4 LDEQ Unrecovered Waste Tire Management Program Costs Fiscal Years 2014 through 2018						
Category	FY14	FY15	FY16	FY17	FY18	Total
LDEQ Administrative Costs	\$1,361,345	\$1,409,161	\$1,223,022	\$1,229,380	\$1,596,267	\$6,819,176
Tire and Late Fees Used by LDEQ to Administer Program*	997,283 (9.0%)	1,124,752 (10%)	1,152,892 (10%)	1,156,770 (9.9%)	1,240,029 (10%)	5,671,726
Unrecovered Program Costs	\$364,062	\$284,409	\$70,131	\$72,610	\$356,239	\$1,147,450
*Up to 10% allowed.						
Source: Prepared by legislative auditor's staff using information provided by LDEQ.						

As shown in Exhibit 4, LDEQ took less than the 10% it was allowed to take to cover its costs for administering the WTMP in two fiscal years, including \$114,377 less in fiscal year 2014 and \$17,896 less in fiscal year 2017. According to current LDEQ management, it does not know why the previous LDEQ administration did not take the full 10% allowed in fiscal year 2014. In fiscal year 2017, LDEQ did not take the full amount so that additional payments could be made to processors using the remaining WTMP budget.

Beginning in October 2018, the fee for passenger tires increased from \$2.00 to \$2.25 per tire.¹⁵ LDEQ projections indicate that this increase will result in approximately \$1 million in additional revenues annually; however, this increase is temporary as the fee for passenger tires will revert back to \$2.00 per tire on August 1, 2022. According to LDEQ, the resulting increase in funds for administrative expenses will help LDEQ better cover its costs for administering the WTMP; however, these costs fluctuate from year to year and there is no way to forecast whether the additional 10% (\$100,000) will allow LDEQ to recoup all of its administrative costs.

¹⁵ Act 541 of the 2018 Regular Legislative Session, R.S. 30:2418

APPENDIX A: MANAGEMENT'S RESPONSE



State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE SECRETARY

June 24, 2019

Mr. Daryl G. Purpera, CPA, CFE
Office of the Legislative Auditor
Post Office Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Purpera,

This is the Louisiana Department of Environmental Quality's (LDEQ) response to the reportable findings presented in the Legislative Auditor (LLA) Performance Audit Services progress report titled **"Fee Collection in the Waste Tire Management Program (WTMP)"**.

As evidenced by the status update within **"Appendix C: Status of Recommendations"**, LDEQ continues to work diligently to address the WTMP issues LLA identified in July 2014. In addition to effectively addressing the issues noted in 2014, the department has taken proactive steps to identify Waste Tire Generator facilities that do not comply with WTMP regulations. Most notably, LDEQ's Surveillance staff has collaborated with the Louisiana Department of Revenue (LDR) and East Baton Rouge Parish Occupational Licensing in 2018 to perform Waste Tire Generator "Sweeps" along Florida Blvd and Airline Highway in Baton Rouge. The unexpected "sweeps" of over fifty generator facilities resulted in numerous reporting actions and penalties. Plans are underway to conduct similar "sweep" operations statewide.

LDEQ takes its regulatory and fiduciary responsibility towards the WTMP very seriously and appreciates the opportunity to respond to the findings of your progress report. After reviewing the recommendations, LDEQ offers the following responses:

Recommendation 1: LDEQ should ensure that it compiles and maintains a complete and accurate list of active generators that are required to submit waste tire reports and fees so that it can use LaGov to send invoices to noncompliant generators.

***Response:** LDEQ agrees with this recommendation. WTMP staff will continue to work in conjunction with the Division of Administration (DOA) and the LaGov development team to update and maintain a complete and accurate listing of active generators that are required to submit waste tire reports and fees to LDEQ.*

Recommendation 2: LDEQ should work with OTS to ensure that LaGov assesses late fees when generators submit fee reports on time but their waste tire payments are late.

Response: LDEQ agrees with the premise of this recommendation. Based on our understanding of the LaGov system, along with information gleaned from conversations with the LaGov development team, it may not be feasible to have the system assess late fees automatically in these circumstances. However, for reports that are submitted without payment or are significantly short-paid (which we will define internally), the Accounts Receivable Section will begin manually entering the late payment fee for the balance due, even if the due date has not passed. In the event the payment is ultimately submitted timely, LDEQ will reverse/waive the late fee. We will discuss alternative ways to address this with OTS, but plan to address this recommendation as outlined above at this time.

Recommendation 3: LDEQ should develop and implement a process using LaGov to pursue collection of delinquent tire and late fee payments from waste tire generators.

Response: LDEQ agrees with this recommendation and has begun to develop and implement this process. In June 2019, the Accounts Receivable Section sent out delinquent notices to generators that have failed to submit reports. LDEQ will continue to send these out at least three times a year. For generators that have submitted their reports, but owe some of their tire fees or late fees, initial invoices were sent to them as well. We plan to implement a process to send follow-up notices/invoices to those that have failed to pay their balances due within the next several months, including referrals to LDEQ's Legal Affairs Division and the Office of Debt Recovery (ODR), when appropriate.

Recommendation 4: LDEQ should develop policies, procedures, and a supervisory review process to ensure that late fees are waived appropriately.

Response: LDEQ agrees with this recommendation. The Accounts Receivable Section has worked with the Billing Section within LDEQ's Financial Services Division to understand its process for waiving late fees and plans to adopt many of the same procedures. We should have the process formalized by December 31, 2019. Many of the late fees that were reversed in the system this past year were merely corrections in the system or late fees that were applied in error. We spoke with the LaGov development team and have requested that a new reason for rejection be added to the system specifically called "waived" to isolate waived fees from corrections.

Recommendation 5: LDEQ should continue to increase its waste tire fee audit coverage of generators as resources allow.

***Response:** LDEQ agrees with this recommendation. LDEQ hired an Internal Auditor in November 2016, which allowed the preexisting audit staff to increase its waste tire fee audit coverage of waste tire generators from 60 in fiscal year 2013 to 90 in fiscal year 2018. This represents not only a 40.7% increase in audit coverage of the generator population, but also a 50% increase in the number of audits conducted per fiscal year utilizing the same number of auditors. Although LDEQ has made strides toward increasing audit coverage, we will continue to seek ways of using available resources to increase the audit coverage of waste tire generators.*

Recommendation 6: LDEQ should continue to work towards using LaGov data to develop a risk based tool to better identify generators that potentially remit fewer fees than owed to the state.

***Response:** LDEQ agrees with this recommendation. In spite of challenges over recent years, when selecting generators for waste tire fee audits, LDEQ continues to use a risk-based approach to identify generators that failed to remit fees or that potentially remitted fewer fees than owed to the state. Accepting referrals from other LDEQ staff is an important part of that approach. LDEQ Audit continues to receive a significant number of referrals each year to audit generators not reporting or potentially under-reporting. Many of the generators referred during fiscal year 2019 have come from Surveillance and Enforcement, resulting from the tire sweeps performed this fiscal year. LDEQ considers these generators high risk for remitting no fees or fewer fees than owed. During fiscal year 2019, referrals initiated approximately half of the 90 waste tire fee audits performed.*

As LDEQ continues to populate LaGov with the active generator data, waste tire fee report data, and manifest data vital in identifying potential under-reporters, LDEQ Audit will strive to develop a tool to better identify and prioritize generators using LaGov data. Although auditing generators that potentially remit fewer fees than owed to the state has always been a priority, we acknowledge that having a means to better analyze the waste tire data universe will go a long way in helping LDEQ identify these generators for audit.

As always, we appreciate the assistance of the LLA and will continue to look for ways to optimize the program to provide for a better environment for current and future citizens of Louisiana. We look forward to your continued assistance in this endeavor.

Sincerely,



Chuck Carr Brown, Ph.D.
Secretary

APPENDIX B: SCOPE AND METHODOLOGY

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. Our audit evaluated the Louisiana Department of Environmental Quality's (LDEQ) progress toward addressing issues identified in our 2014 performance audit on the Waste Tire Management Program (WTMP). This audit generally covered fiscal years 2014 through 2018, except as noted throughout the report. Our audit objective was to:

Determine whether LDEQ addressed issues identified in our July 2014 performance audit on fee collection in the Waste Tire Management Program (*pages 3-10*).

In addition, Act 530 of the 2018 Regular Session provides that the legislative auditor shall conduct performance audits on statutory dedications that include a fee for service at least once every four years. The purpose of these audits is to determine if the fees are adequate to cover the costs associated with the services. In accordance with this legislative mandate, we evaluated the revenues and expenses associated with the Waste Tire Management Fund (waste tire fund). Our audit objective was to:

Determine if the fees associated with the Waste Tire Management Fund are adequate to cover the costs associated with the program (*pages 11-12*).

We conducted this performance audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. To answer our objectives, we reviewed internal controls relevant to the audit objectives and performed the following audit steps:

- Interviewed LDEQ staff and obtained documentation to understand and document the implementation status of the recommendations from our 2014 audit.
- Interviewed LDEQ Management and Finance staff to understand procedures related to the new LaGov module.
- Interviewed LDEQ Audit staff to understand audit procedures.
- Interviewed LDEQ WTMP staff to understand procedures for tracking waste tire manifests.
- Obtained LDEQ policies, procedures and other documents to understand processes for inputting and tracking generator reports and fees.

- Researched Louisiana laws and administrative regulations to determine current criteria including reporting requirements for generators, current tire fees, and regulations for penalizing noncompliant generators.
- Reviewed procedures and interviewed relevant personnel to outline LDEQ's processes to monitor generator compliance with WTMP requirements.
- Obtained LaGov data from April 2018 through February 2019 which includes fee reports for the months of March 2018 through January 2019. We conducted data reliability testing and determined that some fields were not reliable for our purpose. We noted the data limitations in the report.
- Analyzed LaGov data using Excel to identify generators that failed to submit waste tire fee reports at all. We also used this data to determine the amount of late fees assessed by LDEQ, amount of late fees LDEQ failed to assess, and amount of fees waived by LDEQ. Finally, we used this data to determine the amount of late fees that have not been paid and the length of time these amounts were due.
- Obtained waste tire audit data for fiscal years 2014 through 2018. We conducted data reliability testing and determined that the data was reliable for our purpose. We analyzed this data using Excel to determine the number of audits conducted, audit coverage, and audit results.
- Obtained the list of waste tire generators operating during fiscal years 2014 through 2018. We conducted data reliability testing and determined that the data was not complete or accurate. This data limitation became the basis of the first finding in the report. We analyzed this data using Excel to identify generators that failed to submit waste tire fee reports and to calculate audit coverage.
- Obtained and reviewed Waste Tire Task Force annual reports and other documents to understand progress since our 2014 audit and to document Task Force meetings.
- Communicated and verified the methodology and results of our work with LDEQ staff via email and meetings.

Additional audit steps taken to answer the statutory dedication objective:

- Researched Louisiana laws and administrative regulations to determine criteria for revenue and expenditures for the waste tire fund.
- Interviewed LDEQ Management and Finance staff to understand concerns related to funding the WTMP.
- Obtained WTMP revenue and expense data from fiscal years 2014 through 2018 from LDEQ.

- We did not perform data reliability testing on this financial information because the fiscal year 2016 LLA Financial Audit Services (FAS) engagement determined that the WTMP schedules used to obtain the WTMP receipts and disbursements data by fiscal year prepared by LDEQ staff were reasonable. The financial information used for our analysis was validated by LDEQ and we determined it is reasonable based on a comparison to the July 2018 FAS report.

APPENDIX C: STATUS OF 2014 FINDINGS AND RECOMMENDATIONS - AS OF JUNE 2019

Finding 1: LDEQ does not have an effective process to identify and follow up with generators that fail to submit monthly fee reports as required by state law. Without these reports, LDEQ cannot ensure that generators are remitting all fees owed to the state.

<i>Recommendation</i>	<i>Status</i>
1. LDEQ should improve its current process for identifying noncompliant generators so that it identifies and follows up with all generators that do not submit fee reports each month as required by state law in a timelier manner.	Implementation in Progress. LDEQ implemented LaGov in April 2018 which staff use to identify and follow up with noncompliant generators. However, we found that the inaccurate list of generators limits LDEQ's ability to identify all noncompliant generators.
2. LDEQ should follow up on the additional generators we identified that did not submit all reports and fees as required during fiscal years 2012 and 2013 and pursue collection.	Implemented. LDEQ sent letters to some of the generators we identified. However, according to LDEQ, some of the generators we identified in 2014 were erroneously listed as active in LDEQ's system. These generators were actually inactive, and therefore were not required to submit reports.
3. LDEQ should develop an electronic report and payment process that alerts both LDEQ and generators when reports and fees are not submitted each month.	Implementation in Progress. LDEQ implemented LaGov in April 2018 which staff use to identify and follow up with noncompliant generators. However, we found that an inaccurate list of generators limits LDEQ's ability to identify all noncompliant generators.

Finding 2: LDEQ does not monitor generators to ensure they remit monthly reports and fees in a timely manner as required by state law. We found that during fiscal years 2012 and 2013, 1,001 generators submitted \$2.9 million in fees late, with \$1 million of these being more than 30 days late.

<i>Recommendation</i>	<i>Status</i>
4. LDEQ should begin tracking the date generators submit waste tire reports and related fees so that it can ensure that generators are complying with monthly deadlines as outlined in state law.	Implemented. LDEQ implemented LaGov in April 2018 which staff use to track the date generators submit waste tire reports and related fees. LDEQ staff are using this information to identify and follow up with noncompliant generators.

Finding 3: LDEQ's audit coverage and selection criteria do not adequately ensure remitted fees are accurate. During fiscal years 2011 through 2013, LDEQ audited an average of 3.0% of waste tire generators and focused on generators that did not submit reports and fees rather than those that potentially underpaid fees.

<i>Recommendation</i>	<i>Status</i>
5. LDEQ should increase its waste tire fee audit coverage of generators and revise its audit section criteria to include more generators that potentially remit fewer fees than owed to the state.	Implementation in Progress. LDEQ has increased the number of waste tire audits conducted and is working to develop a risk based tool to better identify generators that potentially remit fewer fees than owed to the state.

Finding 4: LDEQ does not penalize generators that fail to remit complete, accurate, and timely waste tire reports and fees to the state. We identified at least 1,045 noncompliant generators in fiscal year 2013, but LDEQ only penalized one.

<i>Recommendation</i>	<i>Status</i>
6. LDEQ should evaluate the effectiveness and appropriateness of its current penalty process and develop specific criteria for when to assess penalties for a generator's noncompliance with program requirements.	Implemented. Act 633 of the 2016 Regular Legislative session provides a more streamlined process for LDEQ to penalize generators that submit late tire fees or reports. State law now allows LDEQ to assess late fees of \$25 for generators that do not submit fee reports on time and \$25 or 10% of the delinquent tire fees for generators that do not pay waste tire fees on time. [R.S. 30:2418(O)(5)]
7. LDEQ should notify generators in writing of its penalty criteria and begin issuing penalties to noncompliant generators accordingly.	Partially Implemented. LDEQ does not notify the regulated community in writing of the penalty regulations. However, this information is available on the LDEQ website. LDEQ does issue penalties to noncompliant generators.

Finding 5: The Waste Tire Program Task Force has not met to study program operations and make recommendations for improvement as required by state law.

<i>Recommendation</i>	<i>Status</i>
8. LDEQ should ensure that the Waste Tire Program Task Force meets to study and make recommendations regarding WTMP operations as required by state law.	Implemented. LDEQ has ensured that the Task Force met.