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Audit Objective..... 2

Audit Results - Summary..... 2

Background..... 3

**Audit Findings and
Recommendations..... 4**

Abatement Progress..... 4

Recommendation 8

Oversight of Abatement Activities... 9

Recommendations..... 10

Use of Shredded Tires at

 Landfills..... 11

Recommendations..... 13

Enforcement of Legal

 Requirements 13

Recommendations..... 14

Audit Scope and Methodology..... 15

Authority 15

Reporting Requirements..... 15

Contributors to the Report 15

Appendix A - Auditee Response.. 16

**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**NEW YORK STATE
DEPARTMENT OF
ENVIRONMENTAL
CONSERVATION**

**SELECTED ASPECTS OF
THE WASTE TIRE
ABATEMENT PROGRAM**

Report 2006-S-67

AUDIT OBJECTIVE

The New York State Department of Environmental Conservation is responsible for overseeing the clean-up of noncompliant waste tire stockpiles. Our objective was to assess the progress made in the clean-up efforts, particularly at the five largest noncompliant stockpiles in the State.

AUDIT RESULTS - SUMMARY

Waste tires are a fire hazard and a potential source of environmental and public health problems. Under the Waste Tire Management and Recycling Act of 2003 (Act), the New York State Department of Environmental Conservation (Department) is to oversee the cleanup (or abatement) of waste tire stockpiles violating existing laws and regulations. If property owners do not voluntarily comply with the abatement requirements, the Department is to assume responsibility for the cleanup and recover the costs from the owner. The abatement of all noncompliant waste tire sites is to be completed by December 31, 2010.

We examined abatement efforts at the five largest noncompliant sites in the State, which together contained an estimated 21 million waste tires (about two-thirds of the total number of waste tires at the 115 noncompliant sites identified by the Department). We found that 1 site (Cycletech, with 2.3 million tires) had been fully abated and another (Hornburg Tire, with 1.8 million tires) was close to being abated. While some progress had also been made at a third site (Fortino, with 8.1 million tires), most of the tires at this site had not been abated. Little or no progress had been made at the other two sites (NY Tire/Izzo Property, with 2 million tires and Mohawk Tire Recycling, with 6.8 million tires).

The Department is required by the Act to develop individual abatement schedules for each noncompliant waste tire site. However, we found the Department has not developed such schedules. In the absence of these schedules, the Department did not have established benchmarks that could be used to measure the State's progress in meeting the 2010 goal. As a result, there is no way to determine whether the State is on track to meet this goal. According to Department records, as of September 2006, abatement was completed or nearly completed at 37 of the 58 owner-abated sites and at 2 of the 37 Department-abated sites (which tend to be larger). Abatement responsibility was still being negotiated for the remaining 20 sites.

When the Department assumes responsibility for a site's abatement, it is required by the Act to seek beneficial uses for the waste tires. In those cases, the Department arranges for the tires to be shredded and used either as fill in highway construction projects or in the construction and operation of landfills (e.g., as landfill liners or covers). Most of the shredded material is supposed to be used in highway projects, but there is no guarantee it will be needed for such projects. We recommend the Department develop alternative disposition plans for materials not needed on highway projects. We also recommend the Department strengthen its oversight of landfills receiving shredded tires to provide more assurance that the landfills are using the materials in a safe and environmentally-correct manner.

At one of the largest noncompliant sites in the State (with 2 million tires), the abatement process has not begun because the Department is still negotiating with the site owner. We found the negotiations have been stalled since 2004 because the owner of the site denied the Department access. The Department's legal team is now asking the

Commissioner to issue an enforcement order directing the site owners to remove and properly dispose of all waste tires on the site's surface, as well as those beneath the surface. We recommend the Department decide, without further delay, on the next step and move as expeditiously as possible to initiate the abatement process at the site. We also recommend the Department develop internal guidelines for resolving issues related to sites where owners are not cooperative.

Our report contains ten recommendations for improving the Department's oversight of abatement efforts at noncompliant waste tire sites.

This report, dated July 1, 2008, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
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BACKGROUND

Waste tires are a potential source of serious problems, especially when they are stockpiled in large numbers. They attract rats, provide breeding locations for mosquitoes, and are susceptible to fires that are noxious and difficult to extinguish. The fires produce a thick, black, foul-smelling smoke and, as the tires melt, the oily discharge can flow into nearby waterways or seep into the groundwater. If the tires are buried, as is sometimes the case, the dangers are compounded. Fire departments located near large waste tire stockpiles often have emergency plans in place for managing the difficulties associated with tire fires.

In New York State, an estimated 18 to 20 million tires are discarded each year and become waste tires. Since waste tires cannot

be accepted by landfills, large stockpiles may accumulate. In fact, some of the largest stockpiles in the State contain millions of waste tires.

To address this growing problem, the State Legislature enacted the Waste Tire Management and Recycling Act of 2003 (Act). Under the Act, the New York State Department of Environmental Conservation (Department) is supposed to inventory and clean up waste tire piles that violate existing laws and regulations. Generally, such piles contain 1,000 or more waste tires and lack a permit from the Department. To qualify for such a permit, site owners must meet certain requirements that are intended to reduce the risk of fire and other dangers associated with waste tires.

The waste tire clean-up process, which is called abatement, may be undertaken by either the site owner or the Department. The Department encourages the site owner to bring the site into compliance voluntarily. However, if the site owner fails to act in a timely manner, the Department is authorized by the Act to assume responsibility for the abatement process and recover all abatement costs from the owner. Generally, the abatement process consists of removing excess waste tires from the site and establishing appropriate safeguards over the tires that remain.

When the Department assumes responsibility for a site's abatement, it is required by the Act to seek beneficial uses for the waste tires that are removed from the site. To comply with this requirement, the Department arranges for these tires to be shredded and used either (1) as fill in highway embankments and other road construction projects overseen by the Department of Transportation (DOT) or (2) in the construction and operation of landfills (e.g., as landfill liners or covers). The cost of

shredding and transporting the excess tires is included in the total cost of abatement, and may be recovered from the site owner.

The Act also established the Waste Tire Management and Recycling Fund (Fund). The costs incurred by the Department in abating waste tire sites are to be financed initially by the Fund. Any costs the Department is able to recover from the site owners are to be returned to the Fund. The Fund is supported by a \$2.50 fee collected by retailers for each new tire sold in the State. The retailers, who are required to accept old tires from purchasers, are to retain 25 cents per tire for their handling costs, and the remaining \$2.25 is to be remitted to the Fund.

The abatement of all noncompliant waste tire stockpiles is to be completed by December 31, 2010. At that point, the Act is to expire. To help ensure that this goal is met, the Department is required to develop a comprehensive Statewide Abatement Plan (Plan) covering all noncompliant waste tire stockpiles and separate abatement schedules for each individual stockpile. The sites are to be prioritized on the basis of their potential adverse impact on public health, safety, the environment, or natural resources. The Plan must also include a census of both the compliant and the noncompliant sites, and the estimated number of waste tires stored at each site.

The Plan was to be submitted to the Governor and Legislature by September 12, 2004. The Department submitted its initial Plan in July 2004, and updated it in September 2006. A total of 115 noncompliant sites have been identified, and these sites were estimated to contain 31.2 million waste tires. About two-thirds of these tires (21 million) were at the five largest sites, as follows:

- Fortino, in Oswego County (8.1 million tires)
- Mohawk Tire Recycling, in Saratoga County (6.8 million tires)
- Cycletech, in Columbia County (2.3 million tires)
- New York Tire/Izzo Property, in Suffolk County (2 million tires)
- Hornburg Tire, in Chautauqua County (1.8 million tires)

To prioritize the sites, the Department developed a scoring system based on such criteria as the total number of tires at the site; the site's proximity to aquifers, streams, and wetlands; and the site's proximity to schools, hospitals, and population centers. The three sites with the highest scores (and, thus, the highest priority) were Fortino, Mohawk Tire Recycling, and New York Tire/Izzo Property. Cycletech and Hornburg Tire were also given high scores and were included among the 12 high-priority sites targeted by the Department for initial abatement efforts.

The Department initiated the abatement efforts in December 2003. Between then and March 31, 2006, a total of \$23.2 million was disbursed from the Fund, of which \$17.2 million was disbursed in the year ended March 31, 2006. At the same time, a total of \$62.8 million in new tire fees and abatement cost reimbursements were deposited into the Fund, leaving more than \$42 million available for future abatement activities.

AUDIT FINDINGS AND RECOMMENDATIONS

Abatement Progress

We found that some abatement has taken place, but a significant amount remains to be

done. For example, the abatement process has been completed at one site (Cycletech, with 2.3 million tires); and another (Hornburg, with 1.8 million tires) was close to being abated. Some progress has been made at a third site (Fortino, with 8.1 million tires). Little or no progress had been made at the other two sites (NY Tire/Izzo Property, with 2 million tires) and Mohawk Tire Recycling (with 6.8 million tires). There is no way to determine whether the State is on track to complete the abatement process by the end of 2010, because the Department has not developed individual abatement schedules for each noncompliant site.

Status of Abatement Efforts

According to Department records, as of September 2006, site owners had assumed responsibility for the abatement process at 58 of the 115 noncompliant waste tire sites identified by the Department. The Department had assumed responsibility for 37 sites, and responsibility had yet to be assumed at the remaining 20 sites (negotiations between the Department and the site owners were underway).

For the 58 owner-abated sites, the Department verified that the abatement process had been completed at 29 sites and was nearly completed at 8 others. These 37 sites contained 519,554 waste tires, or about 1.66 percent of the total number of waste tires identified by the Department for the 115 noncompliant sites. The remaining 21 owner-abated sites contained a total of 605,100

waste tires (1.94 percent of the Statewide total) and were in various stages of the abatement process.

For the 37 sites where the Department had assumed responsibility, the abatement process had been completed for 2 sites, which accounted for 2,516,600 waste tires (8.07 percent of the Statewide total). The Department abatement efforts were underway at 6 sites containing 17,887,300 waste tires (57.34 percent of the Statewide total). For the remaining 29 sites where the Department was assuming abatement responsibility, contract negotiations either had not begun (26 sites accounting for 6,488,400 waste tires) or was still underway (3 sites accounting for 690,000 waste tires). These 29 sites represented 23.01 percent of the Statewide total of waste tires.

The Department had not yet determined and was in the process of establishing responsibility for waste tire abatement at 20 of the 115 noncompliant sites. These 20 sites contained 2,489,000 waste tires (7.98 percent of the Statewide total). The majority of these waste tires (about 2 million) were at a single site, New York Tire/Izzo Property in Suffolk County.

Generally, the Department has assumed responsibility for the larger sites. Thus, even though site owners are abating more than half the sites, nearly 88 percent of the waste tires are at sites being abated by the Department. The following table summarizes the status of the abatement efforts as of September 2006:

Status of Abatement Efforts as of September 2006				
Responsibility	Sites Status	Number of Sites	Number of Tires	Percentage of Total Number of Tires
Department	Completed	2	2,516,600	8.07
	In Progress	6	17,887,300	57.34
	Not Begun	26	6,488,400	20.80
	Contract Underway	3	690,000	2.21
To Be Determined	Under Negotiation	20	2,489,000	7.98
Site Owner	Completed	29	408,158	1.31
	Nearly Completed	8	111,396	0.35
	In Progress	21	605,100	1.94
Total		115	31,195,954	100.00

At the owner-abated sites, the cost of abatement is borne by the owners. At the Department-administered sites, the costs are initially financed by the Fund. However, the Department is required by the Act to recover these costs to the extent possible. At the two completed Department-administered sites, \$5.88 million in abatement costs were incurred. At the six sites where abatement is in progress, the costs are expected to exceed \$37 million. Most of these costs are incurred by contractors, who are overseen, according to the Department, by the Office of General Services (OGS).

Our audit focused on abatement efforts at the five largest sites. The Department has assumed responsibility for these efforts at four of the five sites, while responsibility is still being negotiated at the remaining site (the New York Tire/Izzo Property in Suffolk County). Abatement has been completed at one of the four Department-administered sites (Cycletech in Columbia County). At the other three sites (Fortino in Oswego County, Mohawk Tire Recycling in Saratoga County, and Hornburg Tire in Chautauqua County) abatement is in progress.

The Department estimates that 16.7 million waste tires (53.5 percent of the Statewide total) are at Fortino, Mohawk Tire Recycling, and Hornburg Tire. The Department expects that most of these waste tires (an estimated 16.1 million) will be used as fill in DOT highway construction projects. The projects, which have been approved, are planned for I-87, I-84, and Route 219/15. The Department has made the necessary arrangements with DOT, and DOT picks up the shredded tires from the sites as they are needed in the projects.

The rest of the waste tires from these three sites will be used in the construction and operation of public and private landfills. The abatement contractors are responsible for identifying the particular landfills. According to the abatement contracts, if the shredded tires fail to meet DOT's specifications for highway construction fill, they are to be used at landfills. Generally, older tires, contaminated tires, and improperly-shredded tires fail to meet the specifications.

The tires are shredded at the sites by the contractor. The shredded material is then

stored at the sites until it is taken away for use. DOT's material is stored in specially-constructed concrete enclosures that prevent the material from washing away and reduce the risk of fire.

At two of the sites (Hornburg Tire and Fortino), the contracts call for the abatement of 1.8 million and 8.1 million tires, respectively, at a total cost of \$30.2 million. Abatement began at Hornburg Tire in December 2004 and at Fortino in February 2005. As of September 14, 2006, a total of 2.8 million tires had been shredded at these 2 sites (1.6 million at Hornburg Tire and 1.2 million at Fortino). The shredded tires produced 21,483 tons of material that met DOT's specifications and 6,663 tons of material that did not meet these specifications (the non-DOT material was sent to landfills in Ontario and Chemung counties). It cost about \$15.5 million to shred the 2.8 million tires, or \$5.49 per tire.

At the third site (Mohawk Tire Recycling), about 6.8 million tires are to be abated. A contract was initially awarded for this abatement work, but the contract was terminated in June 2005 because none of the shredded material met DOT's specifications. Relatively few of the tires at the site had been shredded, but no estimate was provided of the actual number. Two new contracts were going to be awarded: one to remove the shredded materials and the other to complete the abatement process.

At the site where abatement was completed (Cycletech), the abatement contract was awarded in August 2004, and the final abatement status was verified by the Department in November 2005. A total of 2.3 million tires were shredded and removed from the site at a total cost of \$3.4 million. According to Department officials, about half of the shredded material (1.1 million tires)

was used in a DOT highway project along I-87 in Clinton County, and the remaining half (1.2 million tires) was used in the construction of two landfills in Seneca and Oneida counties.

At the fifth large site (the New York Tire/Izzo Property in Suffolk County), the Department has been negotiating with the owners for several years. (Department officials told us negotiations began before the Act became law.) The site includes both surface tires and buried tires. Additional information about this site, and the reasons for the delays in the abatement process, are presented in the section of this report entitled *Enforcement of Legal Requirements*.

We conclude that some progress has been made in the abatement of the five largest noncompliant waste tire sites. One site (Cycletech) is fully abated and another (Hornburg Tire) is close to being completed, as 1.6 million of its 1.8 million tires or 91 percent have been shredded. Some progress has also been made at Fortino, as 1.2 million of its 8.1 million tires (nearly 15 percent) have been shredded, but little or no progress has been made at the other two sites. It thus appears that a significant amount remains to be done if all five sites are to be fully abated by the end of 2010, as is intended.

Abatement Schedules

The Act requires that the Department develop a comprehensive Abatement Plan addressing all noncompliant waste tire stockpiles in the State. It also requires the Department to develop a separate abatement schedule for each individual stockpile in the Plan. We found the Department developed the comprehensive Statewide Plan as required. However, the Department has not completed separate abatement schedules for each waste tire site.

Department officials stated that exact schedules could not be developed for the sites when the Plan was first issued in 2004 because engineering evaluations and designs had not yet been completed for the sites. The officials further stated that the schedule for each site varies and is dependent on the specific conditions at the site. For example, several sites require significant infrastructure work, including all necessary environmental safeguards, before abatement can begin. The officials said this work could take between one and six months, depending on the site. They also noted that shredded materials cannot be removed from sites until the materials are needed at their designated highway or landfill projects, and abatement schedules can be affected by the need to wait for materials to be removed.

We acknowledge the validity of the scheduling complexities cited by Department officials. However, construction projects are no less complex, and schedules are routinely developed for them. The Department, using an OGS contract, is employing four engineering consulting firms to help with the planning of the abatement work at the Department-administered sites. Such firms should be able to develop individual abatement schedules for each of these sites.

Department officials noted that the abatement contracts at the Fortino, Hornburg Tire, and Mohawk Tire Recycling sites contain work schedules for the contractors, including scheduled end dates for the shredding process. We agree, but note that some abatement activities (such as the removal of the shredded materials and the Department's final verification that abatement is complete) are not included in these schedules. We also note that contracts have been awarded at only a few of the Department-administered sites. As a result, most of the sites lack even partial schedules.

The abatement of all noncompliant waste tire sites is to be completed by December 31, 2010. In addition, Department officials stated that they are positioning to abate the majority of the sites by 2009, providing a one-year window for those sites that are under legal action. However, in the absence of individual abatement schedules for each site, the Department is unable to determine whether the State is on track to meet the goal. We recommend the Department develop complete abatement schedules for each remaining noncompliant waste tire site, monitor actual abatement activities at the sites against the schedules, and take corrective actions if any sites fall significantly behind schedule.

Recommendation

1. Develop complete abatement schedules for each remaining noncompliant waste tire site, monitor actual abatement activities at the sites against the schedules, and take corrective actions if any sites fall significantly behind schedule.

(Department officials replied to our draft report that, since the completion of the audit field work, they have entered into several contracts to direct contractors to load and transport waste tires for beneficial use. In addition, in July 2007, they entered into 2 contracts to abate 15 sites and, in September 2007, they entered into another contract for 13 sites. They also obtain weekly program status reports on abatement progress and maintain a database on all sites.)

Auditor's Comments: We acknowledge that the Department has made progress and has developed certain documents, as well as the database. However, as indicated in the report, the Act requires the Department did not address the recommendation.

Oversight of Abatement Activities

In its oversight of abatement activities, the Department coordinates with two other State agencies: OGS and DOT. OGS awards the abatement contracts and monitors the contractors at the Department-administered sites. DOT picks up the shredded material that meets its specifications, and uses the material in highway construction projects.

We found indications the Department may have delegated too much of its oversight responsibility to OGS, particularly its responsibility for monitoring the appropriateness and timeliness of abatement activities at each noncompliant site. We recommend the Department be more active in monitoring the performance of the abatement contractors. We also found DOT may not be able to use all the materials being shredded for highway construction projects. We recommend the Department develop alternative disposition plans for these materials.

Coordination with OGS

OGS acts as the contract administrator for the abatement contracts. It develops the RFPs on the basis of the engineering consultants' design specifications and DOT's shredding specifications. It then solicits bids from prospective contractors, evaluates the bids, and makes the actual contract awards. OGS also monitors the contractors' progress in completing the abatement process and their compliance with contract requirements (e.g., the tires must be shredded in accordance with DOT's specifications and any shredded material not meeting these specifications must be shipped to landfills for use in the construction or operation of the landfills).

The Department retains ultimate authority over the abatement process, as it monitors the

overall progress of the abatement activities and performs a final inspection at each site to confirm that the abatement process is, in fact, complete. However, we found indications the Department may have delegated too much of its monitoring responsibility to OGS. For example, while OGS maintains copies of the abatement contracts and other critical documentation (such as records of site inspections and records of shipments of non-DOT materials to landfills), the Department does not maintain copies of these records or contract documents. In the absence of these materials, we question whether the Department's monitoring can be sufficiently thorough.

According to Department officials, since the Department gave OGS administrative authority over the abatement contracts, it is not necessary for the Department to maintain these records. We disagree, and note that the Act requires the Department to serve as the lead agency in the abatement efforts. Therefore, the Department should maintain all critical documentation relating to the abatement process and should use these records to actively monitor the contractors' performance in fulfilling the contracts.

In the event that questions should arise regarding completed clean-up efforts, the Department, as lead agency, is the ultimate public steward responsible for whatever currently-unanticipated environmental concerns might develop. Therefore, it is essential that the Department obtain and review all records that may be relevant to its oversight and monitoring responsibilities for waste tire abatement.

Coordination with DOT

On April 1, 2004, the Department and DOT signed a Memorandum of Understanding (MOU) concerning the usage of tire shreds

that meet DOT specifications. The shreds are to be used to create a product developed by DOT, known as GCP 19, that is considered to be an environmentally-acceptable, beneficial, and economically-sustainable material usable as fill in highway embankments and other road construction projects. The MOU specified that DOT will be responsible, through its contractors, for picking up the tire shreds from Department-designated sites. The MOU is set to expire on December 31, 2010.

We reviewed the coordination between the Department and DOT at two of the large waste sites: Hornburg Tire and Fortino. As was previously noted, abatement began at Hornburg Tire in December 2004 and at Fortino in February 2005 and, as of September 14, 2006, a total of 21,483 tons of material meeting DOT's specifications had been produced. It is expected that this material will be used in three different DOT projects: an I-87 project at Saratoga Springs, a Route 219 project at Springville, and an I-84/I-87 interchange project in Orange County.

As of September 14, 2006, none of the material meeting DOT's specifications had been picked up by DOT. According to DOT, pick-ups for the I-87 Saratoga project were scheduled to begin in October 2006, while pick-ups for the Orange County project were expected to begin during the summer of 2007. The Orange County project was bid in November 2006. However, there were no formal removal schedules for the materials and DOT is not committed by the MOU to adhere to any schedule.

We note that some of these materials have been awaiting disposition for more than a year. According to Department officials, the materials have an unlimited shelf life and there are no health or safety hazards because they are stored in special concrete enclosures.

Nonetheless, in light of these delays, we question whether it is prudent for the Department to rely solely on these indefinite arrangements. If there are delays in bidding the Orange County project or problems with the eventual contractor(s), the shredded materials will continue to sit, and more materials will be added as additional tires are shredded. Similarly, if other highway projects are canceled or delayed in the future, shredded materials could pile up at the sites that are still to be abated. If this happens, it will be difficult for all the sites to be abated by 2010, as intended. DEC admits that it does not have any alternative plan for use of the DOT shreds. The Department indicated that they are counting on DOT to use the shreds.

Based on information in a report issued by a consultant firm, the scrap tire shreds have several uses such as playground materials, athletic field surfacing, and horticultural projects. These uses include both shreds that meet DOT specifications as well as those that do not. We also found information that the shreds are used for dock buffers, door mats, and gymnasium mats. At the closing conference, DEC officials indicated that uses for the shredded materials have changed over time.

We recommend the Department develop alternative disposition plans for shreds that meet DOT's specifications but cannot be used by DOT in a timely manner. We also recommend the Department work more closely with DOT to reduce the delays in the removal of its materials, to the extent this is feasible.

Recommendations

2. Maintain all critical documentation relating to the abatement process and actively monitor the contractors'

performance in fulfilling the abatement contracts.

(Department officials replied to our draft audit report that they are not a party to the contracts for the abatement of sites. They indicated that OGS is responsible for the documents needed to support the implementation and record keeping. Department officials added that they can obtain documents, if needed, from the appropriate records custodian. Furthermore, they stated that they continue to maintain their role as the steward of this important program and coordinate with other State agencies.)

Auditor's Comments: While Department officials maintain they can obtain documents from the other State agencies, there is no assurance that this process will remain reliable throughout the cleanup of all the sites, which will last for several years. We are not recommending that Department officials duplicate the records at other State agencies; rather, they need to determine which documents are needed to support certain milestones and make sure they have them.

3. Develop alternative disposition plans for tire shreds that meet DOT's specifications but cannot be used by DOT in a timely manner.

(Department officials replied to our draft audit report that, since our audit, they have made significant progress in this area. They indicated that, because DOT was not able to use all of the tire shreds in its road construction projects, they had decided to find an alternative beneficial use. Between September 2007 and November 2007, more than 40,000 tons of materials from Fortino were transported off-site for use in landfill operations and

construction. They said they plan to continue this process.)

4. Work more closely with DOT to reduce the delays in the removal of its tire shreds from waste tire sites, to the extent it is feasible.

(Department officials replied to our draft report that they have been working closely with DOT, but the delay of a major DOT construction project has resulted in the accumulation of a significant quantity of shreds. However, they said they have found an alternative use for most of the materials. DOT has not provided DEC with a firm commitment to use tire shreds during the 2008 construction season.)

Use of Shredded Tires at Landfills

If the tires shredded at noncompliant waste tire sites fail to meet DOT's specifications, they are to be shipped to landfills, where they are to be used in the construction or operation of the landfills. The contractor is responsible for finding landfills that can use the materials in ways that have been approved by the Department (e.g., as landfill liners) and for shipping the materials to the landfills. The Department is responsible for ensuring that the materials are used in a safe and environmentally-correct manner at the landfills. To provide this assurance, the Department first issues a Beneficial Use Determination (BUD), authorizing the landfill to use such materials and then performs inspections to determine whether the materials are being used in an appropriate manner.

We examined the disposition of non-DOT materials for three large sites: Cycletech, Hornburg Tire, and Fortino. As was previously noted, abatement began at Hornburg Tire in December 2004 and at

Fortino in February 2005; as of September 14, 2006, a total of 6,663 tons of material not meeting DOT's specifications had been produced at the two sites. According to the available records, all of that material had been shipped to two landfills in Ontario and Chemung counties, where it was to be used for drainage, gas venting, road work, and daily covering of waste dumps.

We determined that the two landfills had a BUD from the Department. However, as of October 13, 2006, there was no record of any Department inspections at the landfills to determine whether the materials were being used in a safe and environmentally-correct manner. We recommend that such inspections be performed routinely at landfills receiving such materials.

We also determined that the BUDs issued to the two landfills were general in nature, and did not state any specific uses or amounts for each use. As a result, it was not clear whether all - or any - of the specific uses at the two landfills (i.e., drainage, gas venting, road work, and daily covering of waste dumps) had been pre-approved by the Department. We recommend the Department make each BUD as specific as possible.

Abatement began at Cycletech in August 2004 and was completed in November 2005. A total of about 11,720 tons of material not meeting DOT's specifications was produced and shipped to two landfills in Seneca and Oneida counties. At the Seneca Meadows Landfill in Seneca County, the material was to be used in the construction of a leachate collection system and the replacement of natural aggregate in an approved manner. At the Ava Landfill in Oneida County, the material was to be used in the construction of a landfill liner system.

We asked to review the BUD that had been issued to the two landfills, but we were told by Department officials that formal documents had not been issued. The officials told us that both landfills were authorized to use the materials, and provided other documentation supporting the authorization. For example, they showed us email communications between the OGS site engineer and the Department's regional engineer indicating that a visit had been made to the Seneca Meadows landfill and the material was being used as intended (in the construction of a leachate collection system and the replacement of natural aggregate in an approved manner). Department officials told us that this email exchange constitutes an approved BUD and is standard practice in that region. For the Ava Landfill, Department officials showed us an approved contract for the liner system at the landfill, which indicated that tire shreds would be used.

It thus appears that both landfills were authorized to use the materials. However, in the absence of a formal BUD, the nature of the authorization may not be understood clearly by all parties. For example, the contract for the liner system at the Ava Landfill did not specify the amount of tire shreds needed. More than half the tires shredded at the Cycletech site did not meet DOT's specifications and had to be used at landfills instead. This was a higher percentage than normally expected and, in the absence of a BUD specifying the amount of tire shreds authorized for liner construction, there is less assurance that all the materials shipped to the landfill were, in fact, needed.

We recommend the Department issue a formal BUD when it authorizes landfills to use tire shreds and, as previously noted, we recommend that they are as specific as possible.

Recommendations

- Promptly inspect landfills receiving shredded tires for approved purposes to determine whether the shreds are being used in a safe and environmentally-correct manner.)

(Department officials maintain that Regional Office staff provide comprehensive oversight of landfills that receive tire shred for beneficial use.)

Auditor's Comments: Records of inspections should identify whether shreds were used in a safe and environmentally correct manner.

- Make each BUD as specific as possible.

(Department officials replied that the draft report is incorrect because the BUD process is not case-specific, but rather approves a requested use of the shred materials at a landfill.)

Auditor's Comments: We have revised the report to reflect that the Department does not issue a "permit" under the BUD process. However, we do not agree the Department cannot be specific as to quantity and use of tire shreds at landfills. As stated in the report, tire shreds can be used for different purposes at the landfill and the Department can provide information to document the intended use.

- Issue a formal BUD document whenever a landfill is authorized to use tire shreds in its operations.

(Department officials replied to our draft audit report that no change to their current practice is warranted. They added that there is no evidence that the tire shred materials are mismanaged at landfills.)

Auditor's Comments: We did not recommend any change that would result in the inconsistent application of the BUD. As noted in the report, the only documentation for one of the landfills was a series of emails that were located because there were no other records to support the Department's approval. We question the lack of a formal document approving the landfill requests.

Enforcement of Legal Requirements

When the abatement process is completed at a site, the Department is authorized by the Act to make all reasonable efforts to recover the full amount of any moneys expended from the Fund.

The total cost of abatement at the Cycletech site, which was completed in November 2005, was \$3,395,698. Thus, to provide the best possible assurance, these costs should be fully recovered, with a lien placed on Cycletech's property that should also total \$3,395,698. However, the amount currently on the lien is just \$3,043,172, which is \$352,526 less than it should be.

When we asked Department officials about this discrepancy, they told us that some expenditures had not been taken into account when the lien was filed. They said it is not necessary to update the lien amount, because the actual recoverable costs will be resolved either through negotiations or a lawsuit filed by the Attorney General.

As was previously noted, it has not yet been determined who will assume responsibility for the abatement process at the New York Tire/Izzo Property in Suffolk County (one of the five largest sites). There are an estimated 2 million tires at the site, most of which are buried. Department officials told us that administrative litigation against the Izzo

property was already underway before the 2003 legislation was enacted, and had reached a semi-settlement regarding both the removal of the surface waste tires and the monitoring of the buried shreds. However, the owners reneged on the proposed settlement by preventing the removal of the surface tires. In 2004, the Department tried to obtain access from the owners so the cleanup could begin, but was denied.

Since that time, little progress has been made in resolving the dispute. In February 2005, the Department filed a motion in the administrative enforcement proceeding, seeking, among other things, an order to require the owners to remediate the site and to cooperate with the State in the event the State should be required to assume responsibility for the abatement of the waste tire stockpiles. The Department's motion was granted with respect to finding the owners liable for owning and operating a noncompliant waste tire stockpile, and otherwise denied on December 1, 2005. The Chief Administrative Law Judge ordered that a hearing be held to assess the amount of penalties and appropriate remedial relief to be recommended to the Commissioner, including the abatement schedule. The Department disagreed that a hearing was required to resolve these matters and appealed to the Commissioner in December 2005. This appeal is still pending with the Commissioner.

We recommend the Department decide, without further delay, on an approach to take with the New York Tire/Izzo Property and move as expeditiously as possible to initiate the abatement process at that site. We also note that the Department has no internal written procedures that can guide the staff responsible for addressing or resolving disputes with noncompliant site owners.

We recommend that, before owner non-compliance escalates to a legal matter, procedures be developed for resolving the situation.

Recommendations

8. Ensure that future liens reflect the known total costs of abatement at the sites.

(Department officials replied to our draft report that there are no problems in the lien amounts filed.)

Auditor's Comments: We disagree; the lien should have been filed for the total cost incurred for the site. Department officials were aware of the amount, but did not use it.

9. Develop written procedures to guide the staff responsible for resolving disputes with noncompliant site owners.

(Department officials replied to our draft report that they now have two attorneys responsible for the waste tire abatement program and for resolving disputes with noncompliant site owners. However, they did not address the recommendation.)

Auditor's Comments: Department officials should formalize the process they expect their employees to follow.

10. Decide on an approach to take with the New York Tire/Izzo Property and move as expeditiously as possible to initiate the abatement process at that site.

(Department officials replied they cannot implement this recommendation because the Commissioner has not issued a decision in this case.)

Auditor's Comments: A timely decision is necessary to provide assurance that the New York Tire/Izzo Property will be abated by December 31, 2010.

AUDIT SCOPE AND METHODOLOGY

We audited the Department's oversight of abatement efforts at noncompliant waste tire stockpiles for the period September 12, 2004, through September 30, 2006, focusing on abatement efforts at the five largest stockpiles. To accomplish our objective, we reviewed the Waste Tire Management and Recycling Act of 2003; the Statewide Abatement Plan developed by the Department in accordance with that legislation; and related Department regulations. We also interviewed Department officials and reviewed documents related to abatement contracts. In addition, we visited the five largest waste tire sites as well as certain other noncompliant waste tire sites. We conducted our audit in accordance with generally accepted government auditing standards.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for the purpose of evaluating organizational independence under generally accepted

government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article II, Section 8, of the State Finance Law.

REPORTING REQUIREMENTS

A draft copy of the matters discussed in this report was provided to Department officials for their review and comment. We considered their comments in preparing this final report, and they are included as Appendix A to this report.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the New York State Department of Environmental Conservation shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Carmen Maldonado, Gerald Tysiak, Santo Rendon, Hugh Zhang, Alexander Marshall, Matthew Phillips, Diane Gustard, and Dana Newhouse.

APPENDIX A - AUDITEE RESPONSE



ELIOT SPITZER
GOVERNOR

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ALBANY, NEW YORK 12233-1010

ALEXANDER B. GRANNIS
COMMISSIONER

DEC 17 2007

Ms. Carmen Maldonado
Audit Director
Office of the State Comptroller
Division State Services
State Audit Bureau
123 Williams Street, 21st Floor
New York, New York 10038

Dear Ms. Maldonado:

DEC has reviewed the Office of the State Comptroller's draft report 2006-S-67 entitled "Selected Aspects of the Waste Tire Abatement Program" dated October 19, 2007. Enclosed please find DEC's response to the draft report.

Thank you for the opportunity to respond to the draft report. If you have any questions regarding DEC's response, please contact Tom Kulzer of DEC's Office of Internal Audit and Investigation at (518) 402-9147.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexander B. Grannis".

Alexander B. Grannis

Enclosure

The New York State Department of Environmental Conservation's (Department) response to the Comptroller's (OSC) draft report 2006-S-67, "Selected Aspects of the Waste Tire Abatement Program" is presented below and broken into three sections.

- General Program Comments
- Specific Comments
- Response to Recommendations

General Program Comments

The Waste Tire Management & Recycling Act of 2003 (Act) was enacted to ensure the proper management of waste tires in New York State. The Act, among other things, established waste tire management priorities in New York State, enacted a waste management and recycling fee of \$2.50 per new tire sold, established the Waste Tire Management & Recycling Fund to which the waste tire management and recycling fee would be deposited, and required the Department to prepare a comprehensive plan by September 12, 2004 designed to abate all noncompliant waste tire stockpiles in New York State by December 31, 2010.

The Department developed the required Plan by July 2004 which was released by the Governor in August 2004, well ahead of the required date. At the time of Plan release, the Department had identified 95 noncompliant waste tire stockpiles across the State containing an estimated 29 million waste tires. Since that time additional sites have been identified (as was expected in the Plan) and refined estimates of the number of waste tires at these sites have been made bringing that current total to 126 sites containing approximately 31.8 million waste tires.

To date, between direct abatement activities of the State and abatement activities undertaken by property owners through Department enforcement action, 57 sites have been abated totaling over 5.5 million waste tires removed with another 1.5 million tire equivalents of manufactured specification tire product awaiting removal for beneficial use. This is in addition to abatement work at the Fortino site, the largest waste tire stockpile in the state, nearing 90 percent completion, where 7.8 million tires have been removed with 7 million of these tire used for beneficial use. Additionally individual contracts for abatement work are in place for another four sites as well as 25 smaller sites included in three regionally based contracts for abatement. This means work has been completed, is under way or under contract at 70 percent of the sites known today with further enforcement or abatement planning work underway at the remaining 30 percent. This data indicates that the Department has obviously made significant progress on this program, in its first three years of implementation. The Department firmly believes that all currently identified noncompliant waste tire stockpiles will be abated in the final three years of implementation and by the statutorily required date of December 31, 2010.

Specific Comments

The following are specific comments the Department has regarding selected wording contained in the draft report.

Page #11, Use of Shredded Tires at Landfills, Column 1, Paragraph 3, and First sentence:
"We determined that two landfills had received Beneficial Use Determination (BUD) permits from the Department."

Department Response: The Department does not issue BUD permits. OSC continues to misunderstand the 6 NYCRR Part 360 (Part 360) regulations regarding BUDs. The BUD is a jurisdictional determination regarding whether a material used in a specific manner constitutes a solid waste, and in that regard, differs substantially from a Permit in which the Department asserts jurisdiction over specific activities, (i.e., landfill construction and operation.)

*
Comment

Response to Recommendations

The following presents the Department's response to each recommendation contained in the draft report.

Recommendation 1: Develop complete abatement schedules for each remaining noncompliant waste tire site, monitor actual abatement activities at the sites against the schedules, and take corrective actions if any sites fall significantly behind schedule.

Response to Recommendation 1: OSC's audit of the Department's abatement efforts focussed on five large sites where on site processing of waste tires to meet Department of Transportation (DOT) specifications had either occurred or was under way. Since OSC's close of fieldwork on this audit (November 2006) major progress continued to occur in abating waste tire sites. The Department has made significant programmatic adjustments in the approach to abatement of sites by eliminating the processing of tires on site to meet DOT specifications for newly contracted sites.

Since November 2006, several contracts have been executed to direct contractors to load and transport waste tires from waste tire sites to facilities approved to accept and process waste tires for beneficial use. In addition, in July 2007, two contracts were signed to abate 15 sites and in September 2007, another contract was signed to abate 13 additional sites. These contracts will allow additional sites to be added or deleted as necessary, allowing the Department the added flexibility to address any new sites that were not identified in the original plan.

The Department continues to prepare weekly program status reports on abatement progress and maintains a comprehensive database of all sites which now total 126 as compared to the 95 sites identified in July 2004 when the Department prepared the statutorily mandated comprehensive plan.

Included with this response is a listing of the 126 sites identified and the status of abatement for each site.

Response to OSC Draft Report 2006-S-7, "Waste Tire Abatement Program"

2

* We have revised the report to reflect information in the Department's response.

Recommendation 2: Maintain all critical documentation relating to the abatement process and actively monitor the contractors' performance in fulfilling the abatement contracts.

Response to Recommendation 2: As indicated in response to the preliminary audit reports issued by OSC, the Department is not a party to the contract for the abatement activities at these sites. The contracts are between Office of General Service (OGS) and the various contractors. The Department is considered by OGS to be the "Client Agency" and Department's role with these contracts is limited to that position. OGS is completely responsible for the implementation and oversight of the projects. Accordingly, the Department is not the records custodian for any information related to the details of the contracts or the details of contract implementation and record keeping. While the Department maintains files for each site for the information for which it is the record custodian, it appropriately and necessarily obtained copies of records requested by the auditors from the appropriate records custodian.

However, we can reassure OSC that the Department continues to maintain its role as the steward of this important program and coordinates with other involved State agencies to complete the abatement with the statutory time frames.

Recommendation 3: Develop alternative disposition plans for tire shreds which meet DOT's specifications but cannot be used by DOT in a timely manner.

Response to Recommendation 3: The Department has made significant progress in this area since September 2006. At the time of the audit, all tire shreds that were processed to meet Department of Transportation (DOT) specifications were being stored on specially designed asphalt pads, awaiting use by DOT in a road construction project. Construction of these storage pads represented a continuing cost to the State and continued storage of tire shred on the site, preventing final site abatement.

Despite close coordination with DOT for the use of this tire shred, DOT was not able to incorporate all of this material in road construction projects. The Department decided to seek alternative beneficial use for the shred that DOT could not immediately use. Between September 2007 and November 2007, over 40,000 tons of tire shred stockpiled on 17 asphalt pads at the Fortino site were transported off site for beneficial use in landfill operation and construction. This eliminated the inventory of tire shred and resulted in significant savings as need to construct additional storage pads at an estimated cost of \$100,000 each was not necessary.

The Department is actively using this approach at all sites until DOT provides firm schedules and commitments for use of processed tire shred. Tire shred currently being stored at the Hornburg and Clarence sites is projected to be removed for beneficial use in landfill construction before January 1, 2008.

Recommendation 4: Work more closely with DOT to reduce the delays in the removal of its tire shreds from waste tire sites; to the extent this is feasible.

Response to Recommendation 4: The Department continues to work closely with DOT to develop sites where tire shred can be used. However, DOT has experienced significant delays in one of the major projects where significant quantities of tire shred were originally projected to be used. As indicated in response to Recommendation #3 above, when DOT cannot use processed tire shred in a timely manner, the Department will seek other beneficial uses. DOT provides the Department routine updates of planned future projects, but DOT has not provided the Department with firm commitments for the use of tire shred during the 2008 construction season.

Recommendation 5: Promptly inspect landfills receiving shredded tires for approved purposes to determine whether the shreds are being used in a safe and environmentally correct manner.

Response to Recommendation 5: The Department does not agree with OSC's recommendation that increased oversight at landfills receiving tire shred is necessary to increase compliance. Landfills operate pursuant to Department permits and are inspected on a routine basis. The Department's Regional Office staff provides comprehensive oversight of landfills that receive tire shred for beneficial use. In addition, some landfills have full time Department environmental monitors present. The Department has no documented evidence, reports or citizen complaints that would necessitate enhanced inspection activities in this regard.

Recommendation 6: Make BUD permits as specific as possible.

*
Comment

Response to Recommendation 6: The Department prepared a detailed analysis of this issue in response to one of OSC's preliminary audit reports. OSC continues to misunderstand the Department's regulations (6 NYCRR Part 360) regarding Beneficial Use Determinations (BUD). The BUD is a jurisdictional determination regarding whether a material used in a specific manner constitutes a solid waste, and in that regard, differs substantially from a permit in which the Department asserts jurisdiction over specific activities, (i.e., landfill construction and operation). The applicable BUD for the beneficial use of non-DOT specification shred from these projects at a permitted landfill is **not** a case specific BUD (Part 360-1.15 (d)). Instead, the applicable BUD for this material and use is found in paragraph 360-1.15 (b) (10). In this paragraph, it is indicated that material which is used in landfill construction, operation or closure is **not** considered "solid waste".

The Department understands OSC's concern that the Department ensure tire shred from State-funded projects be properly managed and accounted for in all instances. The Department believes that further examination of Department procedures will confirm this and reduce OSC's concern in this regard.

Response to OSC Draft Report 2006-S-7, "Waste Tire Abatement Program"

4

* The recommendation was revised based on information in the Department's response.

Recommendation 7: Issue a formal BUD permit whenever a landfill is authorized to use tire shreds in its operations.

*
Comment

Response to Recommendation 7: As indicated in response to one of OSC's preliminary audit reports on this matter, the use of tire shred at landfills was made in accordance with Part 360 of the Department's regulations. Altering this approach for tire shred would lead to inconsistent application of these regulations. As indicated previously, the Department has no evidence, direct or implied, suggesting that tire shred from this program is being mismanaged at landfills. The Department will continue to monitor all landfill sites receiving this material.

Recommendation 8: Ensure that future liens reflect the total cost of abatement at the sites.

Response to Recommendation 8: The difference in the lien amount and the amount expended by the Waste Tire Fund can be attributed to two primary factors: 1) the need to file a lien as quickly as possible to secure the State's interest before the property is transferred to a bona fide purchaser in good faith without notice of such lien; and 2) the lag time between incurrence of costs by OGS and the reporting of costs to the Department.

In the Cycletech case, the Attorney General needed to file a lien as quickly possible because the Attorney General became aware of a prospective sale of the property. Updated cost information was requested immediately before the lien filing to obtain the most accurate information. Nevertheless, the amount of the filed lien (\$3,043,172) is approximately ten percent less than the total incurred costs (\$3,395,698). Therefore, despite the best efforts to file a lien representing the total cost of abatement, the need to file a lien quickly may result in the filing of a lien that does not capture the total cost expended either because the cost data is not yet available, or in some instances, the abatement has not yet been completed. An amended lien or separate lien for the additional amount may be filed later to secure the entire amount expended. Thus, filing a lien that does not reflect the total cost of abatement, nevertheless secures the State's interest and is preferred over the potential alternative of filing a lien for the total cost of abatement after the property has been transferred to a bona fide purchaser in good faith. Moreover, as in the case involving the Cycletech site, the lien amounts in these waste tire abatements cases will far exceed the current market value of the property and the assets of remaining viable responsible parties. The filing of subsequent liens in such instances is probably not necessary, although such filings remain an option.

As seen by the Department and the Attorney General's Office, the filing of a lien is only one step in the process, or one tool that can be utilized in cost recovery. In order to fully recover abatement fund money, cost recovery actions may need to be commenced by the Attorney General's Office. Whereas a statutory lien can only be executed against the real property that benefited from the work, a monetary judgment obtained in a cost recovery action attaches to, and could be executed against, the responsible party's personal

Response to OSC Draft Report 2006-S-7, "Waste Tire Abatement Program"

5

* The recommendation was revised to reflect information in the Department's response.

property and constitutes a lien against any real property owned by the responsible party in the county in which the judgment is entered. A monetary judgment can become a lien against real property in other counties if the judgment is transcribed into the other counties. Monetary judgments can also be executed against after-acquired real property. A monetary judgment can be executed against personal property for 20 years and constitutes a lien against real property for ten years.

Given the obvious advantages of a monetary judgment, if the matter must be litigated, the commencement of a cost recovery action to obtain a monetary judgment is preferred over an action to foreclose a lien. The amount of the lien is irrelevant to the cost recovery action. As stated above, the lien is a tool to secure the State's interest quickly, and prevent the transfer of the real property without notice, and does not necessarily reflect the entire amount sought to be recovered from a responsible party in a cost recovery action. If it appears that the real property has value exceeding the amount of a lien, and the cost of abatement is greater than the lien, then the Attorney General's Office can supplement the lien filing after it receives the final cost documentation.

A statutory lien in these cases has limited utility and should not be viewed as the last word on cost recovery.

Recommendation 9: Develop written procedures to guide the staff who are responsible for resolving disputes with noncompliant site owners.

Response to Recommendation 9: Prior to 2007, the Department had one attorney responsible for the waste tire abatement program and to resolve disputes with noncompliant site owners. The Department now has two attorneys to handle these matters. The procedures for resolving disputes with noncompliant site owners were and remain the same: contact the owners to negotiate a cleanup with the owners through the use of a consent order, or obtain an access agreement granting the Department access to the site to abate the waste tire stockpile. If the owners refuse to take advantage of either of these procedures, then, depending on the complexity of the case and whether access can be obtained without breaching the peace, an administrative action will be commenced to enforce the statute and order the clean up; or the owner is informed in writing that the Department will abate the site pursuant to the statute.

Recommendation 10: Decide on an approach to take with New York Tire/Izzo Property and move as expeditiously as possible to initiate the abatement process at that site.

Response to Recommendation 10: The Department cannot decide on an appropriate approach to take with this property, nor can it initiate the abatement process until the administrative enforcement process is complete. The next step in the process is for the Commissioner to issue a decision in this case.

NYSDEC WASTE TIRE ABATEMENT PROGRAM
STATUS OF NONCOMPLIANT WASTE TIRE STOCKPILES

S. No.	Site ID	County	Name	Access/Consent or Order Status	Deadline for Owner to Abate	Abatement Status	Revised Estimated # of Tires (Excludes Burned & Contaminated Tires)	Tires Removed (Excludes Burned & Contaminated Tires)	Received Score	Comments	Date Abatement Verified	Inspector Name
1	CI 4-05	Rensselaer	Along Construction	Court authorized access - 9/1/06		Abatement contract awarded 10/24/07	702,400	6	6	3/1/06 - Court authorized Soto to proceed with abatement. AG requested a gate be installed to prohibit entry onto the site. Gate installation completed by 12/3/05. Engineer's investigation done. Estimated that up to 400,000 tires are buried on site. Region completed with solid waste cleanup work with AG judgement money 8/4/2000 1115-161 3/1/03. Commencement cleanup order. Owner is in default. Access agreement signed. Engineer's investigation done. Large quantity of tires in steel machine. Access difficult.		
2	CI 4-07	Rensselaer	Grand J. Eagle Property	Access agreement signed		Abatement contract awarded 10/24/07	324,000	6	6	Final site cleanup by S&B Rubbish Removal, was completed on 1/2/06. Under OGS abatement order. OGS abatement contract with Pelancy Const. Co. Some GCP-19 material shipping to DOT (PIN 172156) 1/8/07 project in Nov. & Dec. 2005.		
3	CI 5-03	Saratoga	Mohawk Tire Recycling	Court authorized access rec'd		Abatement contract awarded on 3/22/07	6,800,000	850,000	9	12-09-08-95-03. Referred to AG. Madison County Index 4-98-1335 dt. 1/1/02. Court Ordered Removal @ 70,000 tires/year. Owner is in non-compliance. 2/3/05 - Court ordered access granted. 4/21/05 - According to Town Supervisor, Owner still bringing in tires in defiance of Court Order. Fence was installed by DEC to deter further deposition of tires in anticipation of contract development. Engineer completed site investigation.		
4	CI 7-01	Orwego	Forlow Site	Court authorized access rec'd		Abatement Contract awarded on 2/11/05.	5,100,000	7,382,956	10	CO signed on 7/23/05 granting access to remove all tires and abate the site.		
5	CI 7-04	Madison	Title Town Tires	Access ordered by Madison County Supreme Court		Abatement Contract awarded 10/05/07	364,000	6	6	3/23-09-9504 and 13-202-0508-33, 0/1/99 & 8/1/01, 3/25/0 & N/A. The case was referred to the Civil Section of the AG's office. 8/2/05 - Ulster County Supreme Court authorized access and cleanup authority. 7/19/07 - 03/02/07 13-202-0406-345. Access agreement signed by 11/03/03. Region completed with solid waste cleanup work with AG judgement money 12/5/05. Owner defaulted granting access to DEC. Estimated from file information, atleast 1,600,000 tires are buried on site. Order requires removal of all tires including buried tires. Region 3 affidavit received by Charlie Sullivan		
6	CI 7-11	Madison	Thomas Price Property	CO Signed, Access granted		Awaiting Contract Development	990,000	7	7	Access agreement signed. Abatement can not begin until 7/1/07 per access agreement. 7/19/07 - Owner notified.		
7	CS 3-02	Orange	Brown's Auto Salvage	Court Ordered cleanup/access		East Contract	52,000	4	4	New site located while State inspectors were on marijuana eradication patrol. Motion for order without hearing requested on 1/11/05 with affidavit submitted on 2/1/06. Judgment issued on 1/12/05 requiring owner to cooperate with State removal. Owner removing tires		
8	CS 3-04	Putnam	Madonax Auto Wreckers	Default Judgment Violated		East Contract	1,700,000	9	9	Access agreement signed		
9	CS 3-10	Sullivan	Ludlow Drive Property	Access agreement signed		East Contract	15,000	1	1	CO signed 1/15/05. About 30,000 tires to be removed by 1/15/05 and complete cleanup by 1/15/05. Reports due 8/1/05, 8/31/06 and final report 12/31/06. Regional inspection in summer 2006 revealed no tires removed. 7/19/07 - Owner notified.		
10	CS 3-11	Ulster	Vincenzo Neglia Property	Judgment signed 11/03/05		East Contract	13,000	2	2	Region 5 CO 5-0703-277 signed. Owner was required to remove all but 955 tires by 10/7/04. Town Justice Court order directing cleanup. Regional site inspection on 11/3/05 revealed 8,000 tires remaining on site. Extension of CO schedule granted until 7/1/07. 4/19/07 & 6/21/07 - DEC sent letter under ECL informing owner for Department's right of access for cleanup.		
11	CS 4-04	Ortego	Klinger Property	Access agreement signed		East Contract	15,000	1	1	CO for removal of tires signed 7/6/04. CO requires that site be cleaned up at a rate of 240 tons per 21 days starting 7/7/04 until total number of tires at site is below 25,000. The owner was removing tires at specified rate to Clinton Co. LP for beneficial use but has discontinued delivery to Clinton County LP at landfill request and is in violation of CO. Region has referred this site for completion under the State abatement program. On 11/29/05 OGS authorized RFP to develop an individual abatement contract. Letter sent on 4/26/07 by Charlie Sullivan		
12	CS 4-05	Rensselaer	Chris Sanders Property	AG Consent Order & Judgment		East Contract	50,000	2	2	Court order dated 12/02 by Judge O'Connor ordered cleanup. All tires to be removed by 12/1/05. Charlie Sullivan 9/23/05 email advises that the owner does not have resources to cleanup this site, therefore, include it in Statewide program. Access agreement signed. 3/28/07 - OK'd by Charlie Sullivan		
13	CS 5-07	Essex	Shenahan Corp	CO Executed, Owner to abate		Awaiting inclusion in East Contract	18,000	10,000	1	CO sent for signatures. Decided. Awaiting legal action. Withdrew permit from Corps of Engineers issued on 7/7/05. Letter sent on 4/19/07 by Charlie Sullivan notifying owner of renewed cleanup.		
14	CS 5-15	Chautauq	U Save Tire Corp.	CO Executed, Owner to abate		East Contract	700,000	401,525	8	Court Order Dated 8/11/99. Owner bankrupt. State has access. 9/24/07 email from Bob Siquero indicates that the site has additional 50,000 tires.		
15	CS 5-17	Saratoga	John Post Property	Access agreement executed		East Contract	121,200	3	3	Access agreement signed		
16	CS 5-22	Washington	Dixie's Dump	Notice under ECL 17-1987/6 issued		East Contract	40,000	3	3	Access agreement signed		
17	CS 6-03	Herkimer	Valley Recycling, Inc	Court Ordered cleanup/access		Awaiting Contract	100,000	4	4	Court Order Dated 8/11/99. Owner bankrupt. State has access. 9/24/07 email from Bob Siquero indicates that the site has additional 50,000 tires.		

**NYSDEC WASTE TIRE ABATEMENT PROGRAM
STATUS OF NONCOMPLIANT WASTE TIRE STOCKPILES**

S. No.	Site ID	County	Name	Access/Consent Order Status	Deadline for Owner to Abate	Abatement Status	Revised Estimated # of Tires (Excludes Burned & Contaminated Tires)	Tires Removed (Excludes Burned & Contaminated Tires)	Revised Score	Comments	Date Abatement Verified	Inspector Name
18	CS 6-07	Oneida	A-1 Auto Parts	CO Violation	3/1/06	Awaiting inclusion in Central Contract	21,000	3,500	4	CO for removal of tires signed 9/16/04. CO requires reduce number of tires to less than 1,400. Site inspected by Bob Senior on 1/2/05. Deadline extended until 3/1/06. CO violation. 5/1/06 inspection indicates thousands removed and still around 7,400 tires on site. 8/2/06 e-mail from Bob Senior estimates 4,000 tires remain to be removed in the fall 06. 9/18/06 email from Bob Senior - 3,000 tires left. 12/1/06 email from Bob Senior indicated no progress since last visit. 4/7/07 - email from Bob Senior indicates 3,000 tires still remain on site. 9/6/09 Bob Senior email correct the situation by indicating that 16,500 tires on site and requested to be included in State abatement program.		
19	CS 6-08	Oneida	Bob's Trucking & Auto Parts	Access agreement signed		Awaiting Central Contract	200,000		8	Welland permit issued by Corps of Engineers on 8/1/06. Engineer completed site investigation. Welland permit issued by Corps of Engineers on 8/1/06.		
20	CS 6-09	St. Lawrence	Clark Property	Access agreement signed		Awaiting Central Contract	3,500		2	Access agreement signed. According to Ed Blackmer 1/21/07 email, Contractor employee stated that site cleanup completed.		
21	CS 6-11	St. Lawrence	Rice Property	CO Violation		Awaiting Central Contract	34,200	3,000	2	CO for removal of tires signed 6/24/04. CO requires removal of all tires. 7/27/05 inspection by Ed Blackmer and Jennifer Lauson identifies over 30,000 tires on site. Chadie Sullivan notified staff on 9/2/05 to proceed with abatement. Region 6 affidavit received by Charlie. According to Ed Blackmer 1/21/07 email, Contractor employee stated that site cleanup completed.		
22	CS 6-12	St. Lawrence	Wharawa Iron & Metal, Inc., Town of Lisbon	Default judgement issued 1/21/05		Awaiting inclusion in Central Contract	224,000		5	CO requires removal of 20 tons/wk starting 6/15/03 for a total of 200 tons. CO does not require complete cleanup of site. CO violation has occurred. Default judgement issued on 1/21/06 ordering owner to cooperate with State abatement activities. Engineer completed site investigation. Complexity due to intermixed waste on site. 1/27/07 Region requested that work started.		
23	CS 7-06	Oswego	European Junkyard	Judgment issued 11/3/05		Awaiting Central Contract	40,000		3	Access agreement signed on 11/6/05. Most removal 100 tons per week beginning no later than 12/6/05 and eliminate all debris and most debris nearby reports. No reports received, therefore, in violation. Region 4/29/07 Decree in violation.		
24	CS 7-07A	Madison	HO Tires Extension	Access agreement signed		Awaiting Central Contract	50,000		3	Access agreement signed for three individual parcels. Well and permit issued by Corps of Engineers on 8/29/06.		
25	CS 7-07B	Madison	HO Tires	Access agreement signed		Awaiting Central Contract	17,500		1	Access agreement signed for three individual parcels.		
26	CS 7-09	Oneida	Peter Winkelman Property	Access available ECL-27-1007-6 Motion for order without hearing entered 5/3/07		Awaiting Central Contract	12,000		4	8/1/06 - Motion papers for order without hearing mailed to Virginia State Corporation Commission for review on GST of Virginia. ECL 27-1007-6 will be used to gain access to the property. Possible PCB contamination at site. Structural issues for building. Motion for order without hearing issued on 5/1/07. Owner to begin removing 10 tons/week by 6/30/07 until all tires are removed.		
27	CS 7-10	Oswego	Carl Bico Junkyard	Default judgement issued 4/19/05		Awaiting Central Contract	25,000		4	Administrative order issued by Commissioner on 4/15/06. Owner is required to stop accepting tires and remove existing tires @ 10 tons/week starting 5/15/06 until all waste tires removed. Owner is required to submit weekly report. No action by owner, Region 7 indicates in 7/27/05 e-mail that they determined that the owner is in violation of Order. Region 4/29/07 - Order in violation.		
28	CS 8-10	Yates	Whipple-Dunouch Property	Access agreement signed		Awaiting Central Contract	45,000		3	Access agreement signed		
29	CS 8-15	Schuyler	Marrow Site	Access agreement signed		Awaiting Central Contract	11,000		1	Site was inspected by John Thompson & Joe Gavin with ECO's on 8/25/06. A junkyard was operated at the site prior to the death of Mrs. Moore's husband about 10 years ago. Estimated number of tires - 725306 - Access agreement signed. Site is on both side of road with 3,500 on east side and 2,500 on the West side.		
30	CS 9-09	Chautauque	Harris Auto Wrecking	Motion for Order without hearing on 5/17/06. Judgment issued 9/16/07		West Contract	38,200	6,066	3	CO for removal of all tires signed on 3/21/04. The total number of tires to be removed is 38,200. 11/7/05 Region 9 issued a default judgment submitted on 1/7/06. 2/16/06 letter to owner allows the owner to remove at least 2 lbs per ton of tires from site every week until site is abated. Provide weekly update report. Violation noted by Region on 5/13/06. Motion for order without hearing sent to hearings on 5/17/06. Hearing decision issued on 2/16/07. Affidavit received by Charlie.		
31	CS 9-10	Essex	INS Scrap Processors	CO Executed, Owner to abate		West Contract	3,000	2,170	1	Another CO for removal of all tires signed on 5/12/06. Site abatement to be completed by 7/8/06. Report to be submitted by Owner within 5 days of abatement. Region 9 site inspection on 7/13/06 reveal some tires still present. Region 9 inspection on 1/30/07 revealed over 1,000 tires. Site still in violation. Affidavit received by Charlie.		

NYSDEC WASTE TIRE ABATEMENT PROGRAM
STATUS OF NONCOMPLIANT WASTE TIRE STOCKPILES

S. No.	Type	Site ID	County	Name	Access/Consent Order Status	Deadlines for Order to Abate	Abatement Status	Revised Estimated # of Tires (Excludes Burned & Contaminated Tires)	Tires Removed (Excludes Burned & Contaminated Tires)	Revised Score	Comments	Date Abatement Verified	Inspector Name
32	CS	9a-17	Niagara	Papp's Automotive & Towing	CO Executed, Owner to abate		West Contract	10,000	2,400	3	Site inspected by Region 9 staff (Peter Grasso) on 6/1/05 after fire on 3/2/05. CO executed on 1/15/06. Owner to stop accepting tires and abate site by 8/18/06. Region 9 discussions with owner on 12/6/06 indicated owner will be finished in one month and will send receipts. Receipt for 1,500 tires dated 11/08/06 received. Region 9 decision on 1/9/07 indicates no movement with owner and consider it a violation. Region 9 legal contacted the owner on 1/9/07 and advised that site will be cleaned by state by summer of 07 if owner does not. Affidavit signed by Charles 1/13/07 and initial removal requested. Letter sent on 4/19/07 and 5/21/07 by Charles Sullivan advising owner of financial situation. 10/19/07 - According to Mike Conroy's email to JHE CO act to allow for signatories. Owner is planning on cleanup. Self promised to hold an abatement of this site under state program.		
33	CU	5-25	Warren	Stuzman, Industries	CO Executed, Owner to abate		Awaiting inclusion in East Contract	6,000		2	Site inspected by Region 9 staff (Peter Grasso) on 6/1/05 after fire on 3/2/05. CO executed on 1/15/06. Owner to stop accepting tires and abate site by 8/18/06. Region 9 discussions with owner on 12/6/06 indicated owner will be finished in one month and will send receipts. Receipt for 1,500 tires dated 11/08/06 received. Region 9 decision on 1/9/07 indicates no movement with owner and consider it a violation. Region 9 legal contacted the owner on 1/9/07 and advised that site will be cleaned by state by summer of 07 if owner does not. Affidavit signed by Charles 1/13/07 and initial removal requested. Letter sent on 4/19/07 and 5/21/07 by Charles Sullivan advising owner of financial situation. 10/19/07 - According to Mike Conroy's email to JHE CO act to allow for signatories. Owner is planning on cleanup. Self promised to hold an abatement of this site under state program.		
34	CU	8-04	Saratoga	William Port & Sons	Access agreement signed		Awaiting inclusion in Central Contract	210,000		6	Access agreement signed. Investigation done by Malcolm Pirnie indicates complexity due to wetlands and site contamination.		
35	CU	9a-21	Eric	Southern Tier Auto Center, Inc.	CO Executed, Owner to abate		Awaiting inclusion in West Contract	30,040		4	Schedule requires monthly reduction of 1,500 waste tires until less than 1,000 on-site. Facility out-of-compliance with requirement of Order to provide monthly report. Affidavit received by Charles, 5/21/07 - Peter Grasso, Region 9 requested this site be included in the statewide abatement contract. Last inspection by Region on 11/28/06.		
36	CU	9a-23	Eric	Young Danonilian Facility	Regional Attorney referred to AG's Office		Awaiting inclusion in West Contract	104,510		5	Former C&D landfill. Inspection on 10/29/04 estimated 105,000 waste tires and 5 acres of landfilled C&D landfill. Case has been referred to AG. Charles Sullivan advised on 7/27/07 to add to abatement. AG has received BCI-271-0072.6 - pending referral to AG. Charles Sullivan advised on 7/27/07 to add to abatement. Case has been referred to AG. Charles Sullivan advised on 7/27/07 to add to abatement. Case has been referred to AG. Charles Sullivan advised on 7/27/07 to add to abatement.		
37	N	1-01	Suffolk	New York Tire/Lezo Property	Partial Notice Granted. Appeal sent on 9/21/06		On Appeal to Commissioner	2,000,000		9	Decision continues to require a hearing on penalty. 4/20/06 followup on request for expedited appeal to Commissioner.		
38	N	4-08	Rensselaer	Jim Cooper Auto Parts	CO to clean up under existing permit. New enforcement referred underway.		Regional Attorney to take action	9,000		4	Region 9 inspected on 10/29/04 estimated 105,000 waste tires and 5 acres of landfilled C&D landfill. Case has been referred to AG. Charles Sullivan advised on 7/27/07 to add to abatement. AG has received BCI-271-0072.6 - pending referral to AG. Charles Sullivan advised on 7/27/07 to add to abatement. Case has been referred to AG. Charles Sullivan advised on 7/27/07 to add to abatement.		
39	N	4-09	Schoharie	A & A Recycling	Order issued 7/19/05	7/18/06	AG to take action	90,000		4	Region 9 inspected on 10/29/04 estimated 105,000 waste tires and 5 acres of landfilled C&D landfill. Case has been referred to AG. Charles Sullivan advised on 7/27/07 to add to abatement. AG has received BCI-271-0072.6 - pending referral to AG. Charles Sullivan advised on 7/27/07 to add to abatement. Case has been referred to AG. Charles Sullivan advised on 7/27/07 to add to abatement.		
40	N	4-10	Montgomery	Old Coleco Property			DEE/Region to take action	4,000		5	3/14/07 - Region 4 requested to add this site. About 4,000 tires in an unsecured mill building. Need access.		
41	N	6-17	Oswego	B&W Auto Parts	CO Violation		DEE to take action	2,000		4	4/17/07 email from Bob Sison indicates that the Region handled this junkyard's violations in a consent order. Waste tires were just case problem of many. Ambyard is now out of business.		
42	N	6-19	Hoffman	Keller Property	Notice for Order without hearing	6 Mo. from Order	DEE to take action	7,000		2	New site identified, a junkyard having more than 1,000 tires.		
43	N	7-12	Oswego	K & S Tires	CO Violation		Regional Attorney to take action	10,000		3	Registration revoked. Regional attorney to follow-up to get access agreement/consent order/define for default judgment.		
44	N	7-13	Tioga	Frank's Tire Site			Regional Attorney to take action	30,000		2	3/21/07 - Region 7 ECO tried to have site cleanup since 2005. Now Region requested that this site be included in the program.		
45	N	7-14	Tioga	Benjamin's Salvage Yard				3,000		3	6/13/07 Site visit by Mike Conroy identified this new site.		
46	N	7-15	Tioga	Mandy Acres				5,000		3	6/13/07 Site visit by Mike Conroy identified this new site.		
47	N	8-01	Oswego	Wells Site	CO Executed, Owner to abate	9/31/05	Region to monitor without order	32,500	30,000	3	CO for removal of tires signed 8/30/04. CO requires removal of all tires. 3/21/06 - Joe Gavin reported removal of 30,000 tires, additional 2,500 on site to be removed. 12/7/06 email from Joe Gavin indicates recent BECI inspections still reveals 2,500 tires. New order will be developed.		
48	N	8-03	Saratoga	Tire Solutions, Inc.	Region 8 request for hold		DEE/Region to take action	10,000		1	In consideration of Region 8 request, DEE will hold off pending possible resolution by Region. Owner has filed for bankruptcy. Court case for Court action mid Nov 06. Inspection on 4/24/07 by John Thomsen reveals 3,000 CV tires/tyres. 3,000 to 4,000 passenger car tires, 1,000 truck tires and 500 OTR's.		

NYSDEC WASTE TIRE ABATEMENT PROGRAM
STATUS OF NONCOMPLIANT WASTE TIRE STOCKPILES

S. No.	Site ID	County	Name	Access/Consent Order Status	Deadline for Owner to Abate	Abatement Status	Revised Estimated # of Tires (Excludes Burned & Contaminated Tires)	Tires Removed (Excludes Burned & Contaminated Tires)	Revised Score	Comments	Date Abatement Verified	Inspector Name
49	N 8-05	Wayne	Budget Auto Parts	CO Executed, Owner to abate	8/26/05	Region to monitor without order	8,000	3,000	1	CO for removal of tires signed 8/26/04. CO requires removal of all tires. 7/13/05 & 7/25/05 emails from Joe Gavin - Tiro removal in progress. Approximately 3,000 tires remain on site. 12/7/06 email from Joe Gavin indicates approximately 1,500 tires on site. Ownership has recently changed hands. Region will work with new owner. 3/16/07 email from Joe Gavin indicated total 5,000 tires removed and 3,000 tires remain.		
50	N 8-14	Schenen	Piece Site	Region's request for field	8/31/07	Region to monitor without order	20,000		1	Region's request for field. Region has requested until 8/07 for cleanup will be in place until regional inspection by Region. Owner has requested until 8/07 for cleanup.		
51	N 8-16	Schenen	Schenen Rice Property	Region's request for field	9/30/07	Region to monitor without order	15,000		1	Region's request for field. Region has requested until 8/07 for cleanup will be in place until regional inspection by Region. Owner has requested until 8/07 for cleanup.		
52	N 9-14	Niagara	Myles Junkyard	Referred to AG		AG to take action	117,600	12,000	3	Legal files 891-43 (85-5482-91-97), Consent Order Executed 11/23/91. (no payable penalty). Schedule A. Modified 3/25/98 to require 1,500 tires removed monthly. Draft Order case 826/03. 7/10/04 - Referred to AG. Region inspection 6/1/05 - No old tires removed. OCS was advised on 3/12/07 to proceed with an individual contract development. Affidavit received by Charlie.		
53	N 9-16	Niagara	Junction Road Recycling	Draft Order prepared by Region		Regional Attorney to take action	50,000	23,000	2	DLE issued tickets. On-going enforcement action in Local Court (City of Lockport). 10/29/04 inspection of site by Region, the site has about 30,000 tires. Size rechecked on 6/20/05 estimated 23,000 tires on site. Region 9 action as part of larger SW case. Draft order prepared in June 05. Awaiting legal action by Region.		
54	N 9-22	Erie	AA-1 Auto Wreckers, Inc.	Draft Order issued by Region 6/21/06		Regional Attorney to take action	40,000	31,000	5	Inspected 3/24/06. 9,000 tires estimated to remain on site. Draft order issued on 4/21/06. Legal is negotiating with responsible attorney. Final order pending.		
55	N 9-24	Allegany	John Herimann Property			Awaiting Regional Inspection	4,000	300	2	Region's request for field. Region has requested until 8/07 for cleanup will be in place until regional inspection by Region. Owner has requested until 8/07 for cleanup.		
56	O 4-02	Albany	Stat's Auto	CO Executed, Owner to abate		Region to monitor	150,000	32,000	4	R4-20010116-14 9/7201: Under order from Region to cleanup 16,000 tires each year beginning in 2003.		
57	O 5-10	Rulton	Ernie Fancher Property	New Court Order, Owner to abate	3/30/09	Region to monitor	5,000		1	Court ordered cleanup. All tires to be removed by 1/1/704. Regional inspection on 9/7/05 revealed more tires on site. Fulton County New Court Order dated 3/30/07 gives Owner until 3/30/09 to abate this site.		
58	O 5-11	Fulton	White Salvage	CO Executed, Owner to abate	3/1/08	Region to monitor	15,000		2	CO for removal of tires signed 3/1/08. Owner required to remove all waste tires by 3/1/08.		
59	O 5-19	Saratoga	Van Patton Property	CO Executed, Owner to abate	2006 to 2010	Region to monitor	2,000		3	R3 - 20030307 - 322 Order to cleanup all portions of site including tires between 2003 - 2010.		
60	O 6-04A	Jefferson	Beard Property	CO Executed, Owner to abate	8/15/07	Region to monitor	30,000	1,000	2	CO for removal of tires signed on 5/1/06. Plan for removal due on 6/1/06. All tires must be removed by 8/15/06. 8/15/06 report indicates no tires were removed. 9/18/06 report one tire had been removed.		
61	O 6-18	Oneida	Squadrio Property	CO Executed, Owner to abate	6/30/08	Region to monitor	4,000		4	New site identified, a junkyard having more than 1,800 tires. 9/18/07 CO executed, Owner to cleanup the site by 6/30/08.		
62	O 6-17	Orleans	Sacis Property	Region for Order without hearing	7/1/08	Region to monitor	8,000		1	8/30/07 - New site added by Region. 8,000 tires on site. CO for owner to remove tires by 7/1/08 signed on 6/27/07.		
63	O 6-05	Cattaraugus	Dun Case Auto Parts	CO Executed, Owner to abate	9/30/08	Awaiting Regional Inspection	150,000	100,000	3	CO for removal of all tires signed on 11/2/04. The total number of tires to remain less than 1,000. 6/15/07 inspection by Peter Grass indicated that more than 1,000 tires are on site. Owner claims that the total removed about 100,000 tires in last two years and will have a contract with Midcon to remove remaining tires (about 30,000). The Owner is in violation of consent order. An order to extend deadline until 9/30/08 for owner to abate site was fully executed 8/30/07.		
64	O 6-12	Erie	Rite 20 Auto Parts	Region for Order without hearing on 8/30/07.		Region to monitor	39,000	8,000	3	CO cleanup schedule requires monthly reduction of 1,300 waste tires until less than 1,000 remains on-site. Pictures were taken during 7/24/03 M3P2 inspection. Awaiting Regional inspection. Region discussion with owner on 11/20/06 indicates owner expect to be cleaned up by Spring 07. Affidavit received by Charlie. Motion for order without hearing submitted on 8/30/07.		
65	O 6-18	Erie	Ed Housing, Inc.	CO's Executed on 7/21/03 & 6/22/06, Owner to abate		Regional Attorney to take action	17,000	4,800	1	Consent Orders issued on 7/21/03 and 6/22/06. Requires reduction of 1,000 tires/month. 4,800 tires have been removed. Affidavit received by Charlie.		

12/17/2007

Statewide Waste Tire Sites b4200711.xls

**NYSDC WASTE TIRE ABATEMENT PROGRAM
STATUS OF NONCOMPLIANT WASTE TIRE STOCKPILES**

S. No.	Type	Site ID	County	Name	Access/Consent/Order Status	Deadline for Owner to Abate	Abatement Status	Revised Estimated # of Tires (Excludes Burned & Contaminated Tires)	Tires Removed (Excludes Burned & Contaminated Tires)	Revised Score	Comments	Date Abatement Verified	Inspector Name
66	O	3-19	Erie	J. Kenas and Sons, Inc.	CO Executed, Owner to abate		Region to monitor	22,000	18,400	1	Schedule of consent order requires monthly reduction of 2,000 waste tires until less than 1,000 on-site. Inspection on 11/28/06 estimated 4,000 tires remains on site. Affidavit received by Charlie.		
67	O	3-25	Allegany	Gay L. Meierzahl Property	CO Executed, Owner to abate	6/26/08	Region to monitor	12,000		1	New site identified by Nancy Bartha memo of 4/3/07. CO executed on 6/27/07. Owner has until 6/26/08 to remove all tires.		
68	X	8-13	Shelton	Gardner's Used Auto Parts, Inc.	Owner to abate under Court Order		Awaiting Regional Inspection	35,000	18,199	1	One main pile and 1.5 debris piles. Total tires approximately 35,000. Mostly passenger car tires. Inspected by Region on 12/15/06. CO Executed. Cleanup completed by Region on 1/10/07. Region 8 notified by email on 7/23/07 site below 1,000 tires. Region 8 notified by email on 7/23/07 site below 1,000 tires. 623 notes to States re: notices and rest to Panel Reporting. Final inspection and report awaited. 10/11/07 email indicates that there might be 25,000 tires still on site. Next Regional inspection.		
69	X	8-20	Erie	Brien Wholesale, Inc.	CO Executed, Owner to abate		Awaiting Regional Inspection	41,200	39,000	5	Schedule of consent order requires monthly reduction of 2,000 waste tires until less than 1,000 on-site. Inspection on 3/24/06 estimated 10,000 tires on site. Since inspection owner provided receipts for 7,200 tires. 7/30/07 - Charlie called to inform that site has been abated. Next final inspection and report.		
70	Y	9-01	Chautauque	Hornburg Tire	Commissioner's Order		Abatement contract awarded, shredding complete	1,645,700	558,300	7	Shredding activities complete. 10,874 tons of GCP-19 material on eight storage pads awaiting removal by DOT.	11/14/06	Mark Huns
71	Y	9-02	Erie	Clarence Auto Parts	Access agreement signed		Abatement contract awarded, shredding complete	612,000	278,700	7	Shredding activities complete - Contract closed. 964 tons of GCP-19 material used in DOT's RI-246X (PNR-268.29) project. 4,664 tons of GCP-19 material on three storage pads awaiting removal by DOT. Tire pads by DOT per route 219 agreement begins on 8/14/07. 8/17/07 - per email it appears that 1,331 tons of GCP-19 material was subject to Route 219 project. Remainder 3,333 tons on site.	6/2/2006	Mark Huns
72	Z	2-01	Queens	Coloma Recycling/Rubber2Gold	Owner voluntarily agreed to abate		Owner abated	20,000	20,000	5	10/27/04 Region 2 reports to DEE site is cleaned of tires.	10/27/04	Region 2
73	Z	3-01	Orange	Brim Auto Recyclers	Notice withdrawn		Owner abated	2,000	2,000	2	9/17/04 - Charles Sullivan, DEE inspected site and determined that the facility is in compliance. Notice was withdrawn.	6/3/17/04	Charlie Sullivan
74	Z	3-03	Dutchess	East Park Auto	CO Executed, Owner to abate	1/6/05	Owner abated	2,500	2,500	2	Five loads sent to Caring by 12/23/04 - estimated 2,500 tires. 4/18/06 - Region email states that site is in substantial compliance with CO. Pictures taken on 4/14/06 indicate the same. Site abated.	6/4/17/06	Joseph Baratta
75	Z	3-05	Ulster	Swabbin Mountain	Notice withdrawn		Owner abated	13,000	13,000	2	Inspected by Joe Baratta, Facility is in Compliance.	9/13/04	Joe Baratta
76	Z	3-07	Westchester	Byzons's 24 Hour Towing, Inc.	CO Executed, Owner to abate	2/28/05	Owner abated	24,000	24,000	3	DS-250-9784 and DS-300-0733-2548, 10/8/97 & 11/20/01, 80. The Respondent was delinquent on previous orders. Since then has been removing waste tires quarterly. Per DEE, Region reported that site has been cleaned during March 05.	6/4/21/05	Joe Baratta
77	Z	3-08	Sullivan	Mar Ton Recycling	CO Executed, Owner to abate	9/5/05	Owner abated	7,000	7,000	3	Region email 7/14/05 - indicated that less than 200 waste tires on site.	9/13/05	Joe Baratta
78	Z	3-09	Sullivan	Baunz Towing	CO Executed, Owner to abate	11/17/05	Owner Abated	40,000	40,000	2	10/27/04 - Region requested withdrawal - less than 1,000 tires. 3-20/04/05E-106. Aerial photograph showed more than 1,000 tires - Inspections requested. According to 7/14/05 email, 4/17/05 inspection over 3,000 tires on site. Inspection on 4/27/06 revealed less than 1,000 tires in active processing facility. Per 5/19/06 telephone, Jim Weinert advised Dave Viabla that they have removed 40 truck load of mostly truck tires (equals 40,000 P.T.E.S).	6/4/27/06	Dave Viabla
79	Z	4-01	Albany	Napier Site	CO Executed, Owner to abate		Owner abated	5,000	5,000	1	Rx-221-89-09-72/04 Region email, abatement completed by owner.	6/19/2004	Tom Reynolds
80	Z	5-02	Columbia	J&R Auto Salvage	CO Executed, Owner to abate	5/31/07	Awaiting Regional Inspection	40,500	40,900	3	CO for removal of tires signed 11/23/04. Owner is required to remove tires within one year (11/23/05). \$5,000 credit for tires removed. DEE advised Region on 1/16/07 that Region has 40,900 tires on site. Region by letter on 4/27/07 to Charlie Sullivan outlining core facility abated 6/27/07 site by Dave Viabla. Letters on 4/27/07 to Charlie Sullivan outlining work in progress. 7/24/07 inspection by Region indicates that all tires have been removed, site is abated. Request awaited.	6/7/24/07	Dan Stombaeg
81	Z	5-03	Columbia	Miller's Junkyard	CO Executed, Owner to abate	9/28/05, Ex. 10/15/06	Owner Abated	27,000	27,000	2	CO for removal of tires signed 9/28/04. Owner is required to remove tires within one year (9/28/05). New estimate is that about 27,000 tires on site. June 28, 2006 inspection by Region confirms that all tires have been removed from site. Site abated. Partial report of removal of 7,120 tires received. 8/16/06 - DEE action stopped. Awaiting final full report.	6/24/06	Dan Stombaeg
82	Z	5-04	Columbia	Earth Waste Systems	CO Executed, Owner to abate	4/7/05	Owner abated	3,940	3,040	1	CO for removal of tires signed 10/6/04. Tires removed from site (less than 1,000 remaining) verified by Region on 4/9/05.	6/4/6/2005	Dan Stombaeg

12/17/2007

Statewide Waste Tire Sites bak200711.xls

**NYSDEC WASTE TIRE ABATEMENT PROGRAM
STATUS OF NONCOMPLIANT WASTE TIRE STOCKPILES**

S. No.	Type	Site ID	County	Name	Access/Consent Order Status	Deadline for Owner to Abate	Abatement Status	Revised Estimated # of Tires (Excludes Burned & Contaminated Tires)	Tires Removed (Excludes Burned & Contaminated Tires)	Revised Score	Comments	Date Abatement Verified	Inspector Name
100	Z	6-10	Lewis	Lynbacher Property	CO Executed, Owner to abate	7/1/05	Owner abated	35,000	35,000	2	Must remove all tires from facility by 7/1/05, whether or not baled or excess in concrete. Region 6 3/17/06 notification indicates site should be abated by 6/30/06. June 14, 2006 inspection by Region confirmed that all waste tires have been removed. Need report from Owner.	6/14/06	Gay McCullouch
101	Z	6-13	Ononda	Hotel Site	Default Judgment issued 7/1/06	2/7/06	City of Rome cleaned up the site	21,500	21,500	3	Region 6 notified on 1/17/06 that site was not cleaned up as required by April 06. The Region has issued a Bob Senior indicates City of Rome cleaned up the site.	12/15/06	Robert Senior
102	Z	6-14	Ononda	Dennitono Warehouse Site	CO Executed, Owner to abate		Owner abated	1,792	1,792	1	Region 6 notified on 1/17/06 that site was not cleaned up as required by April 06. The Region has issued a Bob Senior indicates City of Rome cleaned up the site.	6/9/10/06	Robert Senior
103	Z	6-15	Ononda	Superior Auto Parts (Vincny)	CO sent for signatures	8/1/06	Owner abated	42,000	42,500	5	Region 6 notified on 3/17/06 that site was not cleaned up as required by April 06. The Region has issued a Bob Senior indicates City of Rome cleaned up the site.	6/23/06	Robert Senior
104	Z	6-16	Ononda	Doan's Junkyard	CO Executed, Owner to abate		Owner abated	4,000	4,000	4	Region 6 requested site to be added to abatement list on 10/27/06. 3/7/07 email from Bob Senior indicates that all tires have been removed from the site by owner. Region recommended this site be considered abated. Need report on number of tires removed and their destination.	6/5/10/07	Fran D'Agnelo
105	Z	7-40	Cayuga	Kuba Auto Parts	CO Executed, Owner to abate	3/9/07	Owner abated	25,085	25,085	5	CO for removal of tires signed 9/30/05. CO requires to reduce number of tires to 400 or less within 2 years (3/9/07). The report from the owner indicates that the owner has removed 400 tires and 1,500 tires. As of 3/9/07, the owner has removed 400 tires and 1,500 tires. As of 3/9/07, the owner has removed 400 tires and 1,500 tires.	6/3/10/07	Steve Perrin
106	Z	7-98	Essex	Matthew Furnno Property	Owner is default of CO		Owner abated	9,671	9,671	2	Order required 1,000 tires each month to be removed. As of 6/10/06 receipts received and site inspected and considered abated by Region.	6/6/10/06	Tuan Blum
107	Z	8-02	Saratoga	Charles Martin Property	Owner removed in progress	7/15/05	Owner abated	12,000	12,000	1	DDE/Owner verbally agreed on 10/25/04 for owner to remove all tires by 7/15/05. 3/21/06 email from John Thompson indicates that the site is abated and can be deleted. 3/21/06 - Requested Inspection report.	7/7/07	John Thompson
108	Z	8-25	Wayne	Auby's Auto Parts	Owner voluntarily agreed to abate	11/20/04	Owner abated	8,000	8,000	2	12/21/04: consent order negotiation suspended since cleanup progress well under way per Joe Gavin. 7/13/05 email - site in compliance.	6/2/24/05	Joe Gavin
109	Z	8-07	Wayne	Granados Site	CO Executed, Owner to abate	9/30/06	Owner abated	4,000	4,000	3	CO signed 3/7/06. Site to be cleaned up by 7/31/06. Compliance report to be submitted to the Region within 5 days of completion of abatement. Extension until 9/30/06 granted. Inspection on 11/13/06 indicates site is abated.	11/13/06	John Thompson
110	Z	8-08	Wayne	Juliano's Auto Parts	CO Executed, Owner to abate	12/28/04	Owner abated	6,000	6,000	3	On 10/7/04, owner requested that he had removed 5,999 tires from the site. 7/25/05 email by Joe Gavin identifies 400 tires on site - Site in compliance.	6/7/22/05	Joe Gavin
111	Z	8-09	Wayne	Nixon's Truck Parts, Inc.	CO Executed, Owner to abate	12/2/06	Owner abated	15,450	15,450	2	CO for removal of tires signed 6/27/04. Owner informed on 12/7/04 that site removal work completed. 4/13/05 email from John Thompson verifies that the site is abated.	6/2/28/06	John Thompson
112	Z	8-11	Monroe	Jeffery Blenigo Property	CO Executed, Owner to abate	10/26/06	Owner abated	29,600	28,810	2	CO for removal of tires signed 10/10/04. Owner submitted report on 11/20/06 of 38,810 tires removed with 600 - 800 remaining on site. Site inspection by Region on 11/28/06 indicated that about 800 tires remain on site. The site is abated.	11/28/06	John Thompson
113	Z	8-12	Saratoga	Triumph Creek Scrapyard	CO Executed, Owner to abate		Owner abated	8,000	8,000	2	DDE: 10/05/04: 12/23/04: 383 D112 has cleanup under a court order. 7/13/05 inspection - Cleanup proceeding on vehicle. 8/14/06 inspection by Region indicates site abated.	6/8/14/06	John Thompson
114	Z	9-04	Cattaraugus	David Christian Tire	CO Executed, Owner to abate	9/1/05	Owner abated	1,795	1,795	1	CO for removal of tires signed 9/1/04. Inspected on 3/6/05 - Site abated. Abatement letter sent to owner on 10/3/05. 11/1/05 - owner was asked to remove already of tires from the property.	6/9/06/05	Nancy Barba
115	Z	9-11	Eric	Kwiker Auto Parts (Brent)	CO Executed, Owner to abate	3/2/06	Owner abated	20,900	20,900	2	CO for removal of tires signed 4/10/05. The total number of tires to remain less than 1,000. 12/6/05 report signed a consent order on April 1, 2006 that requires them to reduce the on-site storage of waste tires by 2,000 tires per month. DLE Order 9811-067-0-002 executed 2/13/02. \$2,000 payable penalty. This site is an operating salvage yard. Inspection on 11/2/06 - stockpile had been reduced to 1,600 tires.	12/29/05	Nancy Barba
116	Z	9-13	Eric	Twin Village Salvage	CO Executed, Owner to abate		Owner abated	245,000	245,000	1	Region 5 - 11/2/04 inspection report documents violations. Region inspected site on 3/7/05 - all tires removed. Site is free of tires.	11/03/06	Peter Gresso
117	Z	9-15	Eric	Rubbeworks, Inc.	CO sent for signatures	3/7/05	Owner abated	10,000	10,000	3	The removal complete. No progress reports received on date. According to payment # 4 additional 4,124.45 lbs of tire material was removed from site. Final walk through on 6/7/07. 7/1/07 - Visible indicates that all GCP - 19 material used at NYSTA 134687 Project.	6/9/07/05	Nancy Barba
118	ZS	3-06	Ulster	Tire Recycling, Inc.	AG access agreement in effect		State sponsored abatement complete	627,390	627,390	5		6/6/07/07	Jeff Schmitt

NYSDEC WASTE TIRE ABATEMENT PROGRAM
STATUS OF NONCOMPLIANT WASTE TIRE STOCKPILES

S. No.	Site Type ID	County	Name	Access/Consent Order Status	Deadline for Owner to Abate	Abatement Status	Revised Estimated # of Tires (Excludes Burned & Contaminated Tires)	Tires Removed (Excludes Burned & Contaminated Tires)	Estimated Score	Comments	Date Abatement Verified	Inspector Name
119	Z5 4-03	Columbia	Cyclotech, Inc.	Access agreement executed		State sponsored abatement complete (1/1/2003)	2,297,000	2,297,000	9	Site abatement completed under State program. GCP-19 material (11,250 tons) used in DOT's 1477 Project (PIN#720-55112) in Clinton County. All non-GCP-19 tire material used under beneficial for landfill construction. 47006 - Lien placed on property for \$0,945,117.74.	1/11/2005	Dave Vitale
120	Z5 5-08	Franklin	Fletcher's Dump	Access agreement signed		Abatement contract awarded on 12/18/05.	141,320	141,320	4	Access agreement signed. Access from Enmar Gilbert (neighbor) received. Application for SPDES permit submitted on 10/16/06. Contract awarded on 12/18/06. 797707 small form OCS indicated that total 1,413,20 tons of tires were removed from the site. Final inspection on 8/1/07 accompanied by Dan Sternbergs for DEC.	08/01/07	Don Sternbergs
121	Z5 7-02	Chester	Batchings Automotive	Access agreement signed		State sponsored abatement complete	250,100	250,100	4	Tire shredding completed - contract closed. 719007 - Visibles indicate that all GCP-19 material used at NYSTA L-8487 Project.	06/23/06	Dave Vitale
122	Z5 7-03	Orondaga	Lot 65 Newport Rd.	Access available ECL-27-1907.6		Abatement contract awarded on 4/23/07.	75,000	51,465	5	ECL 27-1907.6 will be used to gain access to the property. Worked permit issued by Corp of Engineers on 10/26/06. Abatement contract awarded to Pika Company. 129406 report from Region indicated removal of 1,210,71 tons of tire material removed from this site. Project on hold since 11/22/06 awaiting change order to process the remainder of tires. All tires removed from site on by 2/22/07. no progress reports received on date. 2/28/07 Region 9 inspection of Alternative Resource Management (receipt of tires from Don Maglio Site) is still in violation for illegal stockpiling tires and fire material outside. Final DEC inspection required.	08/02/07	Jeff Scheidt
123	Z5 9-03	Wyoming	Ben Maglio Property	Access agreement signed		State sponsored abatement complete	224,598	224,598	5	Under OCS abatement contract with Pika Company. 129406 report from Region indicated removal of 1,210,71 tons of tire material removed from this site. Project on hold since 11/22/06 awaiting change order to process the remainder of tires. All tires removed from site on by 2/22/07. no progress reports received on date. 2/28/07 Region 9 inspection of Alternative Resource Management (receipt of tires from Don Maglio Site) is still in violation for illegal stockpiling tires and fire material outside. Final DEC inspection required.	06/07/07	Mark Hens
124	Z5 9-06	Cattaraugus	Southern Tur Tire	Commissioner's Order		State sponsored abatement complete (1/1/2005)	219,600	219,600	5	Site abatement completed under State Program. All GCP-19 (1,977 tons) tire material used in DOT's 240X project (PIN:5208.38) and non-GCP-19 material used under beneficial use for landfill construction.	11/08/05	Dave Vitale
125	Z5 9-07	Allegany	Thoutan Property	Access available ECL-27-1907.6		West Contract	340,000	84,000	6	Settlement offer extended to permit owners (the property got split into parcels. With tires on them, sold property); 4/1/07 the settlement offer was not accepted. West Contract was awarded to permit owners (the property); 4/1/07 the settlement offer was not accepted. West Contract was awarded to permit owners (the property). AR/ROIT received by Charlie. 719807 Decree notified. West Region W048 (D). 8/7/07 for \$540,181 issued. 10/26/07 - WD visited to \$48,728.00. Substantial Completion 10/16/07. Final report & inspection required. Access agreement signed. Worked permit issued by Corps of Engineers on 12/26/07. 719007 - Owner notified. West Region W041 (D). 8/10/07 for \$540,793 issued. Substantial completion 10/16/07. Final report and inspection required.	10/16/07	
126	Z5 9-08	Allegany	Kimberly Torrey Property	Access agreement signed		West Contract	150,000		3		10/16/07	
Total Tires							31,726,875	14,665,677				

LEGEND (Type):

- CE: Sites with access available and identified for individual abatement contracts.
- CS: Sites with access available or in violation of consent order and assigned to Regional Contract for abatement.
- CO: Sites where consent order is complete and assigned to Regional Contract for abatement.
- CP: Sites where access agreement, consent order or further legal action is under negotiation.
- NS: Sites where access agreement, consent order or further legal action is under negotiation.
- OD: Sites under consent order or other order/agreement for owner to abate.
- R: Sites in need of Regional inspection for compliance with consent order.
- XC: Sites where abatement completed by owners, however, need final inspection by Region to verify abatement is complete.
- Y: Sites where abatement is complete - awaiting removal of GCP-19 shared by DOT.
- Z: Sites abatement completed by Owners and verified by Region/DEC staff.
- ZS: Sites abatement completed by State.