§ 27-1907. Abatement of noncompliant waste tire stockpiles.

1. No later than one year from the effective date of this title, the department shall prepare and submit to the governor and the legislature a comprehensive plan designed to abate all noncompliant waste tire stockpiles by December thirty-first, two thousand ten. This plan shall establish a noncompliant waste tire stockpile abatement priority list and schedule for abatement of each noncompliant waste tire stockpile based on potential adverse impacts upon public health, safety or welfare, the environment, or natural resources. The plan shall also include a census of compliant and non-compliant waste tire stockpiles in the state and the number of waste tires believed to be stored at each site.

2. The owner or operator of a noncompliant waste tire stockpile shall, at the department's request, submit to and/or cooperate with any and all remedial measures necessary for the abatement of noncompliant waste tire stockpiles with funds from the waste management and cleanup fund pursuant to section ninety-two-bb of the state finance law.

3. No later than two years from the effective date of this title, the department shall publish requests for proposals to seek contractors to prepare whole and mechanically processed waste tires situated at noncompliant waste tire stockpiles for arrangement in accordance with fire safety requirements and for removal for appropriate processing, recycling or beneficial use. Disposal will be considered only as a last option. The expenses of remedial and fire safety activities at a noncompliant waste tire stockpile shall be paid by the person or persons who owned, operated or maintained the noncompliant waste tire stockpile, or from the waste management and cleanup fund and shall be a debt recoverable by the state from all persons who owned, operated or maintained the noncompliant waste tire stockpile, and a lien and charge may be placed on the premises upon which the noncompliant waste tire stockpile is maintained and upon any real or personal property, equipment, vehicles, and inventory controlled by such person or persons. Moneys recovered shall be paid to the waste management and cleanup fund established pursuant to section ninety-two-bb of the state finance law.

4. If execution upon a judgment for the recovery of the expenses of any such remedial and fire safety activities at a noncompliant waste tire stockpile is returned wholly or partially unsatisfied, such judgment, if docketed in the place and manner required by law to make a judgment of a court of record a lien upon real property, shall be a first lien upon such premises, having preference over all other liens and encumbrances whatever. Notwithstanding the foregoing, such lien shall not have preference over any mortgage or other encumbrance for the benefit of the state of New York or a public benefit corporation thereof.

5. The department shall make all reasonable efforts to recover the full amount of any funds expended from the waste management and cleanup fund for abatement or remediation through litigation or cooperative agreements. Any and all moneys recovered, repaid or reimbursed pursuant to this section shall be deposited with the comptroller and credited to such fund.

6. The department shall have authority to enter all noncompliant waste tire stockpiles for the purpose of investigation and abatement.