

74-12-11. Enforcement.

In the exercise of any of the powers and duties conferred by law, a governing body of a political subdivision of the state may enforce the provisions of the Night Sky Protection Act [74-12-1 NMSA 1978].

History: Laws 2001, ch. 151, § 2.

Effective dates. — Laws 2001, ch. 151 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 15, 2001, 90 days after adjournment of the legislature.

ARTICLE 13**Recycling and Illegal Dumping Act**

Sec.

- 74-13-1. Short title.
- 74-13-2. Legislative purposes.
- 74-13-3. Definitions.
- 74-13-4. Prohibited acts.
- 74-13-5. Facilities; entry by department; availability of records to department and others.
- 74-13-6. Administration of act.
- 74-13-7. Recycling and illegal dumping alliance.
- 74-13-8. Rules; authority and content.
- 74-13-9. Scrap tire manifest system.
- 74-13-10. Solid waste permit exemption.

Sec.

- 74-13-11. Abatement of illegal dumpsite.
- 74-13-12. Authorization for abatement contracts.
- 74-13-13. Enforcement; compliance orders.
- 74-13-14. Enforcement; field citations.
- 74-13-15. Judicial review of administrative actions.
- 74-13-16. Penalty; criminal.
- 74-13-17. Grants; eligibility; applications.
- 74-13-18. Rubberized asphalt program.
- 74-13-19. Recycling and illegal dumping fund created.
- 74-13-20. Rubberized asphalt fund created.

74-13-1. Short title.

Sections 1 through 20 of this act may be cited as the "Recycling and Illegal Dumping Act".

History: Laws 2005, ch. 171, § 1.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-2. Legislative purposes.

The purposes of the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978] are to:

- A. protect the health and welfare of current and future residents of New Mexico by providing for the prevention and abatement of illegal dumpsites;
- B. promote environmentally sound methods for reuse and recycling;
- C. create a statewide recycling alliance involving the cooperation of cities, counties, state agencies, tribal governments, land grant communities and private business to encourage economic development, community development and collaboration that foster sustainable use of resources, increased recycling and a cleaner and healthier environment; and
- D. enhance and coordinate existing highway litter control and removal and recycling efforts that include the recycling of tires, glass, plastic, metal, paper products, electronic waste and construction and demolition materials.

History: Laws 2005, ch. 171, § 2.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-3. Definitions.

As used in the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978]:

- A. "abatement" means to reduce in amount, degree or intensity or to eliminate;
- B. "agricultural use" means the beneficial use of scrap tires in conjunction with the operations of a farm or ranch that includes construction projects and aids in the storage of feed;
- C. "alliance" means the recycling and illegal dumping alliance;

- D. "board" means the environmental improvement board;
- E. "civil engineering application" means the use of scrap tires or other recycled material in conjunction with other aggregate materials in engineering applications;
- F. "composting" means the process by which biological decomposition of organic material is carried out under controlled conditions and the process stabilizes the organic fraction into a material that can be easily and safely stored, handled and used in an environmentally acceptable manner;
- G. "cooperative association" means a refuse disposal district created pursuant to the Refuse Disposal Act [4-52-1 NMSA 1978], a sanitation district created pursuant to the Water and Sanitation District Act [73-21-2 NMSA 1978], a special district created pursuant to the Special District Procedures Act [4-53-1 NMSA 1978] or other associations created pursuant to the Joint Powers Agreements Act [11-1-1 NMSA 1978] or the Solid Waste Authority Act [74-10-1 NMSA 1978];
- H. "department" means the department of environment;
- I. "dispose" means to deposit scrap tires or solid waste into or on any land or water;
- J. "household" means any single and multiple residence, hotel or motel, bunkhouse, ranger station, crew quarters, campground, picnic ground or day-use recreation area;
- K. "illegal dumping" means disposal of trash, scrap tires or any solid waste in a manner that violates the Solid Waste Act [74-9-1 NMSA 1978] or the Recycling and Illegal Dumping Act;
- L. "illegal dumpsite" means a place where illegal dumping has occurred except as stated in Subsection A of Section 4 of the Recycling and Illegal Dumping Act;
- M. "market development" means activities to expand or create markets for recyclable and reusable materials;
- N. "motor vehicle" means a vehicle or device that is propelled by an internal combustion engine or electric motor power that is used or may be used on the public highways for the purpose of transporting persons or property and includes any connected trailer or semitrailer;
- O. "processing" means techniques to change physical, chemical or biological character or composition of solid waste but does not include composting, transformation or open burning;
- P. "recycling" means any process by which recyclable materials are collected, separated or processed and reused or returned to use in the form of raw materials or products;
- Q. "reuse" means the return of a commodity into the economic stream without a change to its original form;
- R. "scrap tire" means a tire that is no longer suitable for its originally intended purpose because of wear, damage or defect;
- S. "scrap tire baling" means the process by which scrap tires are mechanically compressed and bound into block form;
- T. "scrap tire generator" means a person who generates scrap tires, including retail tire dealers, retreaders, scrap tire processors, automobile dealers, automobile salvage yards, private company vehicle maintenance shops, garages, service stations and city, county and state government, but does not include persons who generate scrap tires in a household or in agricultural operations;
- U. "scrap tire hauler" means a person who transports scrap tires for hire for the purpose of recycling, disposal, transformation or use in a civil engineering application;
- V. "secretary" means the secretary of environment;
- W. "tire" means a continuous solid or pneumatic rubber covering that encircles the wheel of a motor vehicle;
- X. "tire-derived fuel" means whole or chipped tires that produce a low sulfur, high-heating-value fuel;
- Y. "tire-derived product" means a usable product produced from the processing of a scrap tire but does not include baled tires;

Z. "tire recycling" means a process in which scrap tires are collected, stored, separated or reprocessed for reuse as a different product or shredded into a form suitable for use in rubberized asphalt or as raw material for the manufacture of other products; and

AA. "tire recycling facility" means a place operated or maintained for tire recycling but does not include:

(1) retail business premises where tires are sold, if no more than five hundred loose scrap tires or two thousand scrap tires, if left in a closed conveyance or enclosure, are kept on the premises at one time;

(2) the premises of a tire retreading business, if no more than three thousand scrap tires are kept on the premises at one time;

(3) premises where tires are removed from motor vehicles in the ordinary course of business, if no more than five hundred scrap tires are kept on the premises at one time;

(4) a solid waste facility having a valid permit or registration issued pursuant to the provisions of the Solid Waste Act or regulations adopted pursuant to that act or registration issued pursuant to the Environmental Improvement Act [74-1-1 NMSA 1978]; or

(5) a site where tires are stored or used for agricultural uses.

History: Laws 2005, ch. 171, § 3.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-4. Prohibited acts.

A. A person shall not store or use in a civil engineering application, except for agricultural use, more than one hundred scrap tires anywhere in this state, unless the person has a valid permit or registration from the department.

B. A person shall not operate or maintain a tire recycling facility unless the facility has a valid permit issued pursuant to the provisions of the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978] or is a facility where tires are stored and used for agricultural uses and complies with rules enacted pursuant to the Recycling and Illegal Dumping Act.

C. A person shall not transport scrap tires for hire to a place other than a tire recycling facility unless the place is specifically excluded from the definition of a "tire recycling facility".

D. A person shall not transport scrap tires for hire either for disposal or recycling purposes without being registered as a scrap tire hauler by the department pursuant to rules adopted in accordance with the Recycling and Illegal Dumping Act.

E. A scrap tire generator shall not release scrap tires to a person other than a registered scrap tire hauler pursuant to the Recycling and Illegal Dumping Act or a registered commercial waste hauler pursuant to the Solid Waste Act [74-9-1 NMSA 1978].

F. A person shall not engage in the open burning of scrap tires.

G. A person shall not store or dispose of scrap tires or tire-derived products in a manner that creates a public nuisance, promotes the breeding or harboring of disease vectors or creates a potential for fire or other health or environmental hazards.

H. Except for agricultural uses, a person shall not store scrap tires or tire-derived products for a period exceeding twelve months unless specifically authorized by the secretary.

I. A scrap tire hauler shall not transport scrap tires without possessing a New Mexico scrap tire manifest approved by the department.

J. A person shall not engage in, maintain or allow illegal dumping.

History: Laws 2005, ch. 171, § 4.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-5. Facilities; entry by department; availability of records to department and others.

A. The secretary or any authorized representative, employee or agent of the department may:

(1) enter a facility of a scrap tire generator, scrap tire hauler or tire recycling facility at any reasonable time for the purpose of making a routine inspection or investigation of scrap tire management practices based on reasonable evidence of a violation of the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978];

(2) take and analyze samples of the facility's waste, soil, air or water in order to detect the nature and concentration of contaminants, including those produced by leaching, natural decomposition, gas production or hazardous products in the facility, and the owner or operator shall have the right to split the sample and conduct the owner or operator's own analysis;

(3) for the purposes of developing or assisting in the development of rules, conducting a study, taking corrective action or enforcing the provisions of the Recycling and Illegal Dumping Act, conduct monitoring or testing of the equipment, contents or surrounding soil, air, surface water or ground water at the facility of a scrap tire generator, scrap tire hauler or tire recycling facility; and

(4) in coordination with the secretary of transportation, conduct at weigh stations or any other adequate site or facility inspections of scrap tire haulers.

B. Records, reports or information obtained by the department pursuant to this section shall be available to the public, except that information shall be treated confidentially upon a showing, satisfactory to the department, that records, reports or information or a particular part of the records, reports or information, if made public, would divulge information entitled to protection under the provisions of 18 USCA Section 1905. That record, report or information may be disclosed to officers, employees or authorized representatives of the United States concerned with carrying out the federal Resource Conservation and Recovery Act of 1976 or to officers, employees or authorized representatives of the state when relevant in any proceedings pursuant to the Solid Waste Act [74-9-1 NMSA 1978].

C. A person not subject to the provisions of 18 USCA Section 1905 who knowingly and willfully divulges or discloses information entitled to protection pursuant to this section shall, upon conviction, be subject to a fine of not more than five thousand dollars (\$5,000) or to imprisonment not to exceed one year or both.

D. In submitting data pursuant to the Recycling and Illegal Dumping Act, a person required to provide such data may:

(1) designate, in writing and in such manner as the secretary may prescribe, the data the person believes is entitled to protection pursuant to this section; and

(2) submit the designated data separately from other data submitted pursuant to the Recycling and Illegal Dumping Act.

History: Laws 2005, ch. 171, § 5.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-6. Administration of act.

The department is responsible for the administration and enforcement of the provisions of the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978] and of all rules adopted by the board pursuant to the provisions of that act. The department is delegated all authority necessary and appropriate to carry out its responsibilities.

History: Laws 2005, ch. 171, § 6.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-7. Recycling and illegal dumping alliance.

A. The "recycling and illegal dumping alliance" is created and is comprised of one member from each of the following:

- (1) state government;
- (2) local government;
- (3) a solid waste authority;
- (4) an industry waste generator;
- (5) a tribal government;
- (6) a nonprofit organization;
- (7) a recycling company;
- (8) a retailer;
- (9) an agricultural producer;
- (10) a soil and water conservation district;
- (11) a waste management company; and
- (12) the public at large.

B. The secretary shall appoint members of the alliance to serve two-year terms as volunteers with no compensation from the state.

C. The alliance shall:

- (1) develop strategies to increase recycling and decrease illegal dumping in New Mexico;
- (2) create a state recycling plan, as a component of the New Mexico solid waste management plan, to establish programs and goals and update the plan every three years to measure progress and modify strategies; and
- (3) review and make recommendations for funding grant applications from the recycling and illegal dumping fund.

History: Laws 2005, ch. 171, § 7.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-8. Rules; authority and content.

The board shall adopt rules to implement the provisions of the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978]. The rules shall be adopted pursuant to the provisions of the Environmental Improvement Act [74-1-1 NMSA 1978] and shall include:

- A. requirements and procedures for the issuance of permits and registrations to tire recycling facilities, civil engineering applications, scrap tire generators and scrap tire haulers;
- B. standards and requirements for tire recycling and scrap tire storage and processing;
- C. record-keeping requirements for tire recycling facilities, scrap tire haulers and scrap tire generators;
- D. financial assurance criteria for tire recycling facilities;
- E. fire rules for storage of scrap tires and tire-derived products that are consistent with the rules or recommendations adopted by the state fire marshal;
- F. criteria and procedures for making disbursements pursuant to grant and loan programs authorized from the recycling and illegal dumping fund;
- G. requirements and procedures for contracting with counties, municipalities, Indian nations, pueblos and tribes, land grant communities and cooperative associations for the abatement of illegal dumpsites and recycling;
- H. requirements and procedures for a scrap tire manifest system;
- I. a fee schedule applicable to scrap tire haulers and tire recycling facilities not exceeding the estimated cost of investigating and issuing permits and registrations and conducting regulatory oversight of permitted and registered activities; and

J. a fee schedule applicable to scrap tire generators not exceeding the estimated cost of conducting regulatory oversight of scrap tire generators.

History: Laws 2005, ch. 171, § 8.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-9. Scrap tire manifest system.

A scrap tire generator who transports or offers for transportation, scrap tires for offsite handling, altering, storage, disposal or for any combination thereof shall complete a scrap tire manifest pursuant to rules adopted by the board. Upon demand, the manifest for every generator whose scrap tire load is transported shall be shown to an officer of the motor transportation division of the department of public safety, the New Mexico state police, a local law enforcement officer or the secretary or the secretary's designee.

History: Laws 2005, ch. 171, § 9.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-10. Solid waste permit exemption.

A person operating a tire recycling facility under a permit issued pursuant to the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978] shall not be required to obtain a permit for that facility pursuant to the Solid Waste Act [74-9-1 NMSA 1978].

History: Laws 2005, ch. 171, § 10.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-11. Abatement of illegal dumpsite.

A. The department may bring an abatement action pursuant to the provisions of Section 30-8-8 NMSA 1978 to eliminate an illegal dumpsite.

B. The secretary may act administratively to eliminate illegal dumpsites pursuant to the provisions of the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978].

C. Nothing in this section shall prohibit a municipality, county, Indian nation, pueblo or tribe, land grant community or cooperative association from contracting for services to complete an abatement action.

History: Laws 2005, ch. 171, § 11.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-12. Authorization for abatement contracts.

The secretary may contract with the governing body of a county, municipality, Indian nation, pueblo or tribe, land grant community or cooperative association for the abatement of illegal dumpsites located within the boundaries of the county, municipality, Indian nation, pueblo or tribe, land grant community, cooperative association or solid waste authority. The contract shall provide for the reimbursement of the county, municipality, Indian nation, pueblo or tribe, land grant community or cooperative association for expenses incurred in bringing an abatement action, including court costs, reasonable attorney fees and the actual expense of elimination of the illegal dumpsite if that expense is not recovered from and paid by the owner or operator of the illegal dumpsite as a result of the abatement action.

History: Laws 2005, ch. 171, § 12.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-13. Enforcement; compliance orders.

A. Whenever the secretary determines that a person has violated or is violating any requirement or prohibition of the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978], a rule adopted pursuant to that act or a condition of a permit issued pursuant to that act, the secretary may:

(1) issue a compliance order stating with reasonable specificity the nature of the violation and requiring compliance immediately or within a specified time period or assessing a civil penalty for any past or current violation or both; and

(2) commence a civil action in district court for appropriate relief, including a temporary or permanent injunction.

B. A compliance order issued pursuant to this section may include a suspension or revocation of a permit or portion of the permit issued by the secretary. A penalty assessed in the compliance order shall not exceed five thousand dollars (\$5,000) per day of noncompliance for each violation.

C. A compliance order issued pursuant to this section shall state with reasonable specificity the nature of the required corrective action or other response measure and shall specify a time for compliance.

D. A compliance order issued pursuant to this section shall become final unless, no later than thirty days after the order is served, the person named in the order submits a written request to the secretary for a public hearing. Upon a request, the secretary promptly shall conduct a public hearing. The secretary shall appoint an independent hearing officer to preside over the public hearing. The hearing officer shall make and preserve a complete record of the proceedings and forward a recommendation to the secretary, who shall make the final decision.

E. The secretary may seek enforcement of the order by filing an action for enforcement in the district court.

F. Upon request of a party, the secretary may issue subpoenas for the attendance and testimony of witnesses at the hearing and for the production of relevant documents. The secretary shall adopt procedural rules for the conduct of the hearing, including provisions for discovery.

G. In determining the amount of a penalty authorized to be assessed pursuant to this section, the secretary shall take into account the seriousness of the violation, good-faith efforts of the violator to comply with applicable requirements of the Recycling and Illegal Dumping Act or rules issued pursuant to its provisions and other relevant factors.

History: Laws 2005, ch. 171, § 13.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-14. Enforcement; field citations.

A. The board shall implement a field citation program by adopting rules establishing appropriate minor violations for which field citations assessing civil penalties not to exceed one thousand dollars (\$1,000) per day of violation may be issued by local government authorities or employees of the department as designated by the secretary.

B. A field citation issued pursuant to this section shall be final unless the person named in the citation files a written request for a public hearing with the secretary no later than fifteen days after the date on which the field citation is served on the person, in which case the enforcement of the field citation shall be suspended pending the issuance of a final order of the secretary after a public hearing. The procedures for scheduling and conducting a hearing on and for final disposition of a field citation shall be the same as those provided for a compliance order pursuant to the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978].

C. Payment of a civil penalty required by a field citation issued pursuant to this section shall not be a defense to further enforcement by the department to correct a continuing violation or to assess the maximum statutory penalty pursuant to the provisions of the Recycling and Illegal Dumping Act if the violation continues.

D. In determining the amount of a penalty to be assessed pursuant to this section, the secretary or the person issuing a field citation shall take into account the seriousness of the violation, good-faith efforts of the violator to comply with the applicable requirements of the Recycling and Illegal Dumping Act or rules issued pursuant to its provisions and other relevant factors.

E. In connection with a proceeding pursuant to this section, the secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents and may adopt rules for discovery.

History: Laws 2005, ch. 171, § 14.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-15. Judicial review of administrative actions.

A person adversely affected by an administrative action taken by the secretary pursuant to the provisions of the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978] may appeal the action pursuant to Section 39-3-1.1 NMSA 1978.

History: Laws 2005, ch. 171, § 15.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-16. Penalty; criminal.

A. A person who knowingly violates Section 4 of the Recycling and Illegal Dumping Act [74-13-4 NMSA 1978]:

(1) is guilty of a misdemeanor if the violation involves a quantity of scrap tires or tire-derived products that is less than five thousand pounds and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; or

(2) is guilty of a fourth degree felony if the violation involves a quantity of scrap tires or tire-derived products that is five thousand pounds or greater and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

B. A person who knowingly omits any substantive information or knowingly makes a false substantive statement or representation required pursuant to the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978] or rule adopted pursuant to the provisions of that act is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

History: Laws 2005, ch. 171, § 16.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-17. Grants; eligibility; applications.

A. A municipality, county, Indian nation, pueblo or tribe, land grant community, cooperative association or solid waste authority that meets eligibility requirements established by the board may apply for a grant for providing funds to public landfills to offset the cost of collecting or recycling of tires or submit a competitive bid for a loan or contract for development costs or operating costs to establish a recycling facility, purchase equipment, perform marketing, purchase products produced by a recycling facility, provide educational outreach, develop recycling infrastructure, abate illegal dumpsites or contract with vendors to promote recycling and to abate illegal dumpsites consistent with provisions of the Recycling and Il-

legal Dumping Act [74-13-1 NMSA 1978]. The first priority for funding shall be abatement of illegal scrap tire dumpsites and the recycling of scrap tires.

B. A grant, loan or contract for processing shall not be awarded pursuant to the Recycling and Illegal Dumping Act to a person who receives less than ninety-five percent of recyclable materials from sources in New Mexico.

C. Nothing in this section prohibits a municipality, county, Indian nation, pueblo or tribe, land grant community or cooperative association from contracting for services to complete an abatement action.

D. At least two-thirds of budgeted grant money in each fiscal year shall be allocated to tire abatement and recycling programs, and one-third of budgeted grant money in each fiscal year shall be allocated to abatement of illegal dumping and recycling of other solid wastes.

History: Laws 2005, ch. 171, § 17.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-18. Rubberized asphalt program.

The department of transportation may use rubberized asphalt in paving mixtures for state and local highway projects and to pay added expenses that may result from using rubberized asphalt. The department of transportation shall adopt rules for the administration of the rubberized asphalt program, including the development of procedures for disbursement of money to municipalities and counties for the use of rubberized asphalt in paving mixtures and shall develop paving specifications for the use of rubberized asphalt.

History: Laws 2005, ch. 171, § 18.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-19. Recycling and illegal dumping fund created.

The "recycling and illegal dumping fund" is created in the state treasury. Fees and penalties collected pursuant to the Recycling and Illegal Dumping Act [74-13-1 NMSA 1978] shall be deposited into the fund. Money in the fund is appropriated to the department for abatement of illegal dumpsites, for processing, transportation or recycling of all recyclable materials and scrap tires, for providing funds to public landfills in New Mexico to offset the cost of collecting or recycling of tires and for carrying out the provisions of the Recycling and Illegal Dumping Act. Any unexpended or unencumbered balance or income earned from the money in the recycling and illegal dumping fund remaining at the end of a fiscal year shall not revert to the general fund. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or the secretary's designee.

History: Laws 2005, ch. 171, § 19.

Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

74-13-20. Rubberized asphalt fund created.

The "rubberized asphalt fund" is created in the state treasury. Money in the fund is appropriated to the department of transportation to pay additional expenses that might result from using rubberized asphalt paving mixes, to allocate at least fifty percent of the fund to local governments for that purpose and to carry out the provisions of the rubberized asphalt program, including hiring a term employee to administer the program. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of transportation or the secretary's designee. Any unex-

pended or unencumbered balance remaining in the rubberized asphalt fund at the end of a fiscal year shall not revert to the general fund.

History: Laws 2005, ch. 171, § 20.
Effective dates. — Laws 2005, ch. 171 contains no effective date provision, but, pursuant to N.M. Const.,

art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.