



NEW MEXICO
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**GUIDANCE DOCUMENT FOR DETERMINING ACCEPTABLE
BENEFICIAL AGRICULTURAL USE OF SCRAP TIRES**
Solid Waste Bureau – New Mexico Environment Department

Relevant Statutes and Rules

- Recycling and Illegal Dumping Act (“RAIDA”), NMSA 1978, §§ 74-13-1 to 74-13-20
- Recycling, Illegal Dumping and Scrap Tire Management Rule (“RIDSTMR”), 20.9.20 NMAC
- Solid Waste Act (“SWA”), NMSA 1978, §§ 74-9-1 to 74-9-42

Purpose

To provide clarification and regulatory guidance for the NMED’s Solid Waste Bureau in its interpretation and application of the RAIDA and RIDSTMR, specifically regarding what activities should be considered an acceptable “beneficial agricultural use” of scrap tires.

Discussion

Both the RAIDA and the RIDSTMR define the term “agricultural use” as “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...”.

The SWA defines the term “agricultural” as “all methods of production and management of livestock, crops, vegetation and soil. This includes, but is not limited to, raising, harvesting and marketing. It also includes, but is not limited to, the activities of feeding, housing and maintaining animals such as cattle, dairy cows, sheep, goats, hogs, horses and poultry...”.

The RIDSTMR, 20.9.20.62 NMAC, states, in part, that any person claiming to be exempt from the RAIDA (i.e., permitting requirements) because the scrap tires will be used in an beneficial use agricultural use “must show, upon request, that the scrap tires are being put to a beneficial agricultural use.”

The NMED understands and appreciates the intent of the legislature to minimize or eliminate unnecessary regulation of agricultural operations; however, in recent years, the NMED has become aware of several locations where scrap tires were transported to a ranch, farm or rural property and placed within or adjacent to a watercourse, wetland or other eroded channel, reportedly to prevent continued erosion, reclaim eroded lands, increase water retention to encourage plant growth, create dams, or to use the tires as livestock fencing, pens or shelter. Such use of scrap tires sometimes resulted in the migration of scrap tires to neighboring properties, presenting a substantial risk of fire or disease vector harborage, creating a

public nuisance, and/or resulting in large stockpiles of scrap tires upon the ground. Allowing scrap tires to be used for erosion control and land reclamation under the exemption for a beneficial agricultural use, without any regulatory oversight or involvement to assure a properly engineered design that is protective of health and safety, and that would preclude migration and prevent nuisances – as would be afforded during the permitting process under the RIDSTMR, is not appropriate.

Guidance

Effective upon approval of this Guidance Document:

1. As it pertains to the use of scrap tires under the RAIDA, NMSA 1978, §§ 74-13-3.B, and the RIDSTMR, 20.9.20.7.C NMAC, the term “beneficial agricultural use” means the use of scrap tires in conjunction with the operations of a farm or ranch, to benefit the raising, harvesting and marketing of crops or livestock, including, but not limited to, the activities of storing crop harvests and seed for future planting, or the feeding, housing and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses and poultry. “Beneficial agricultural use” does not include:

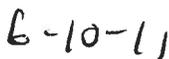
- A. the use of more than 100 scrap tires for the purpose of erosion control or land reclamation, to include uses that impact a watercourse, wetland or other eroded area that may be subject to water run-on, run-off or flooding;
- B. the use of more than 100 scrap tires within, or to denote the curtilage of, the residential portion of a farm or ranch;
- C. the use of scrap tires, in any amount, when such use creates a public nuisance, promotes the breeding or harboring of disease vectors, or creates a potential for fire or other health or environmental hazards;
- D. the use of scrap tires, in any amount, when such use constitutes the disposal of the scrap tires by abandonment or other means; or
- E. the use of more than 100 scrap tires upon land that does not meet the requirements of 20.9.20.62 NMAC.

2. The owner or operator of any ranch or farm that uses more than 100 scrap tires for the purpose of erosion control or land reclamation, including uses that impact a watercourse, wetland or other eroded area that may be subject to water run-on, run-off or flooding, shall comply with all applicable requirements of the RAIDA and the RIDSTMR, including the requirement to obtain a permit. Such use of scrap tires is not an acceptable beneficial agricultural use of scrap tires under the RAIDA and the RIDSTMR.

APPROVED:



**F. DAVID MARTIN
SECRETARY**



DATE