



Finance Department
100 North Main, Suite 11
Lovington, NM 88260

Phone: (575) 396-8521
Fax: (575) 396-5684
e-mail: kmclaughlin@leacounty.net

LEGAL NOTICE OF REQUEST FOR PROPOSALS
LEA COUNTY, NEW MEXICO

RECYCLING OF TIRES & TUBES
LEA COUNTY LANDFILL & HOBBS CONVENIENCE CENTER
COMMODITY CODE: 96284, 92677
PROP #02-(17-18)
DUE DATE: OCTOBER 25, 2017 - 3:00 P.M.

The Lea County Commissioners will receive sealed proposals in the Finance Department, Fourth Floor, Courthouse, Lovington, New Mexico, for Recycling of Tires & Tubes at Lea County Landfill in Eunice, NM & North Hobbs Convenience Center.

The Request for Proposals, all related information, and any future addenda may be obtained from Lea County's web site at <http://www.leacounty.net/p/254> or by contacting the Finance Department, Lea County Courthouse, 100 N. Main, Suite 11, Lovington, New Mexico 88260-4030, (575) 396-8521, X-2356, kmclaughlin@leacounty.net.

QUESTIONS: All questions must be addressed in writing to the same contact info above. Only questions answered in writing by Lea County will be binding.

Ron Black, Chairman
October 6, 2017

TERMS AND CONDITIONS
LEA COUNTY, NEW MEXICO

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1. The Terms and Conditions will form part of the contract between the County and the successful offeror. Failure to comply with all of the Terms and Conditions may subject the offer to rejection.
2. All proposals will be sealed, addressed and **delivered by 3:00 p.m. (local time) on OCTOBER 25, 2017** to: The Finance Department, 100 North Main, 4th floor, Suite 11, Lovington, New Mexico, 88260-4030. **Please mark the outside of the envelope "PROP #02"**. It is the offeror's responsibility to see that the proposal arrives on time. Late proposals, FAXes, or telephone proposals will not be accepted.
3. **Each proposer is to submit its proposal on the form provided. The form must be fully completed.**
4. All proposals are FOB Lea County Courthouse, Lovington, New Mexico.
5. The proposal will exclude all State taxes. Nontaxable transaction certificates will be issued if requested.
6. Any resident business registered with the State Purchasing Agent may list its Resident Certification Number.
7. All offerors will be notified by letter of the Board's award.
8. A multi-term proposal is being sought. The County's payment and performance obligations for succeeding fiscal periods will be subject to the availability and appropriation of funds. Multi-term proposals must have a provision allowing the County to terminate the agreement at will at any time, or at least to the end of each fiscal year, without penalty. There must be no "equitable or moral" duty to continue to make payments under the proposal.
9. Proposal specifications indicate the minimum standard of quality, performance or other pertinent characteristics required. All services equal or exceeding these specifications will be considered. All options, variations or exceptions to specifications must be listed.

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10. In case of ambiguity in stating proposal prices, the County reserves the right to adopt the most advantageous interpretation.
 11. The County reserves the right to waive technical irregularities in the form of the proposal which do not alter price, quality or quantity, and to reject any or all proposals when it is in the best interest of the County to do so.
 12. In signing this proposal, the Vendor certifies that there has been no direct or indirect action in restraint of free competitive bidding in connection with this proposal submitted to Lea County.
 13. In submitting this proposal, the offeror represents the offeror has familiarized himself with the nature and extent of the Request for Bids dealing with Federal, State and local requirements which are part of this Request for Bids.
 14. The offeror will be required to carry:
 - a) General liability insurance in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.
 - b) Auto liability insurance in the amount of \$1,000,000.00.
 - c) Workers' Comp insurance as required by State Statute.
- ***Lea County will be listed as a co-insured on all policies, and proof of coverage must be submitted with before work begins.**
15. The Lea County Procurement Policy and the New Mexico Procurement Code, 13-1-28 through 199, NMSA, 1978, will apply to this procurement and prevail over any inconsistent terms and govern all interpretations of contract documentation. In addition, criminal laws prohibit bribes, gratuities and kickbacks.

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16. This agreement is subject to New Mexico law, including but not limited to, the Procurement Code, the New Mexico Public Works Minimum Wage Act and all federal and state laws, rules and regulations pertaining to equal employment opportunity. The rights and obligations set forth herein are to be construed and interpreted according to said laws, regardless of whether they are expressly set forth herein. Should any provision herein be found to be legally unenforceable, it will not affect the legality or enforceability of the remainder of this contract, so long as the basic intent and object of this agreement is not undermined by the elimination of the objectionable provision(s).

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this agreement may be terminated by the contracting agency.

17. It is expressly agreed and understood that the Contractor is not authorized to act as an agent of the County or to enter into any contract on behalf of the County. It is also acknowledged that the Contractor, its agents and employees, by virtue of award of this proposal, are not entitled to any fringe benefits available to the employees of Lea County.
18. The Contractor will save and hold the County harmless from all suits, actions, claims, losses and expenses, including attorney's fees brought on account of any injuries or damages sustained by any employee or person, including wrongful death, or damage to property as a result of any negligence, misconduct or omission by the Contractor or employee or agent thereof connected in any way with Contractor's performance under this Contract.
19. The County's policy on requests for copies of proposal information is as follows:
- a. Terms and Specifications are available at no charge to vendors who will be responding directly to bids or proposals. As soon as it is available after the opening date, a tabulation sheet of all proposals will be available at \$1.00 per page.
 - b. Submit a written request detailing what information you would like to receive.
 - c. There will be a charge of \$1.00 per page by check or money order made payable to Lea County at this address:
Lea County
Finance Dept.
100 North Main, Suite 11
Lovington, NM 88260
The fee must be paid before the information is released.
 - d. Charges will apply to any sub-contractors requesting our mailing list. The sub-contractor may then contact vendors directly regarding information on the specifications.

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20. The County may prematurely terminate this Contract if the Finance Director judges that the Contractor has inadequately or unsatisfactorily met its obligation under this Contract. This agreement may be terminated by any party for cause upon 30-days written notice to the other participants in the contract. As used herein, the term "cause" will mean a material breach of the Agreement by a non-terminating party, or acts or conduct by a non-terminating party that substantially alters the terminating party's ability to benefit from this Agreement, which breach, acts, or conduct are not cured or remedied within the 30-day period following the giving of notice by the terminating party (which notice will detail the nature of the breach, acts, or conduct constituting the case for termination and specify the effective date of termination in the event such breach, acts, or conduct are not cured or remedied within 30 days following the giving of such notice).
21. The Contractor agrees not to assign this Contract, or any part thereof, to any other person or business entity, without first receiving prior written consent of the County. The Contractor is forbidden from using non-employees.
22. Award of this proposal incorporates all agreements and understandings between the County and the Contractor regarding the provision of services to the facilities named herein. No prior agreements or understandings, verbal or otherwise between the parties, will be valid or enforceable unless set forth herein.
23. Award of the proposal will not be altered, changed or amended except by an instrument in writing executed by the parties hereto.
24. Upon award, the agreement between Contractor and the County will be governed by the laws of the State of New Mexico and enforced in the District Court of Lea County.
26. Contractor must submit a copy of their New Mexico contractor's license and any sub-contractors' licenses.
27. According to state procurement regulations, any protest of the award must be submitted in writing within fifteen (15) days of written notice of award to:

**Finance Director
Lea County Courthouse
100 N. Main, Suite 11
Lovington, NM 88260**

SPECIFICATIONS AND CONTRACTUAL TERMS
LEA COUNTY, NEW MEXICO

RECYCLING OF TIRES & TUBES
LEA COUNTY LANDFILL & HOBBS CONVENIENCE CENTER

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DUE DATE: OCTOBER 25, 2017 - 3:00 P.M.

Lea County is seeking proposals for the pick up and recycling of tires & tubes from the following Lea County, New Mexico locations:

Hours of Operation:

- | | |
|-----------------------------------|---|
| 1) Lea County Landfill, Eunice | 3219 E. State Highway 176, Eunice, NM 88231 |
| | - 7:30 AM - 4:30 PM Monday-Saturday (Standard) |
| | - 7:30 AM - 5:30 PM Monday-Saturday (Daylight Savings Time) |
| | - CLOSED Sundays and All Major Holidays |
| 2) North Hobbs Convenience Center | West of Halliburton, 4401 Business Park Blvd, Hobbs, NM |
| | - 8:00A.M. – 6:00 P.M. Monday – Saturday |
| | - 11:00A.M. – 6:00 P.M. Sunday |

All tires will be deposited into one typical 45' container at each location for easy pick up. Should tire volume dictate, Lea County will have the option to increase to two (2) containers at each site.

Tires / tubes must be recycled by reducing them to the maximum extent possible and using that material in manufacturing other original products. Steel from the tires must also be recycled into other products.

Please describe on the attached Proposal Form your company's capacity to provide these types of recycling (attach additional pages or literature if necessary).

AWARD: Prior to award of this contract, the County reserves the right to inspect the facilities of any bidder/offeror. The reputation of offerors regarding adequacy of their resources and facilities and past records of their skillful performance of work of the type and magnitude required herein shall be considered when making the award. Consideration will also be given to how the recycled material will be used.

TERM: The period of service will be effective immediately after award and continue for one year thereafter. Upon mutual agreement of both parties, there will be three one-year options to renew.

ESCALATION:

All prices offered herein shall be firm against any increase for one (1) year from the effective date of the contract. Prior to commencement of subsequent renewal terms, the County may entertain a request for escalation in accordance with the current Consumer Price Index (CPI) at the time of the request or up to a maximum 5% increase on the current pricing, whichever is lower.

For purposes of this section, "Consumer Price Index" shall mean the Consumer Price Index-All Urban Consumers-United States Average-All Items (CPI-U), as published by the United States Department of Labor, Bureau of Labor Statistics.

Lea County reserves the right to accept or reject the request for a price increase within 14 days. If the price increase is approved, the price will remain firm for the renewal year for which it was requested.

The successful vendor(s)/contractor(s) hereby agree to be bound by all terms and conditions of this proposal. Vendor will be required to remove all tires (i.e. passenger vehicle, pickup truck, heavy duty truck, bus and off-road tires) from the above designated salvage areas within three (3) workdays of Lea County Landfill or Hobbs Convenience Center requesting a pick up. If tires / tubes are not removed within the specified time, Lea County reserves the right to go to the next lowest bidder/offeror or open market to perform the removal services.

If the vendor is unable to supply requested services within the designated time, due to factory delay, strike or any unforeseen circumstances, the vendor must notify Lea County of the delay and the anticipated pick-up date. Failure to comply with this requirement may result in a poor performance rating, which may be considered at renewal time or in subsequent awards.

Failure to meet delivery date and to provide services as specified herein may result in written termination of this contract. **In the event of failure to provide satisfactory services, Lea County may also at its discretion elect to go with the next highest rated offeror for these services.**

NEW MEXICO RECYCLING RULES: Contractors will abide by New Mexico's current recycling rules / regulations, located here: https://www.env.nm.gov/swb/documents/RIDSTM_2007.pdf .

ATTACHED: Please see the attached documents regarding New Mexico's "Recycling, Illegal Dumping and Scrap Tire Management Rule" (RIDSTM) and manifest requirements. Information is available for review on NM Environment Department's website <https://www.env.nm.gov/swb/tires.htm> or by calling (505) 827-0197.

NM STATE STATUTES regarding recycling & scrap tire management = https://www.env.nm.gov/swb/documents/RIDSTM_2007.pdf

CONTRACTOR QUALIFICATIONS:

At the option of the County, bidders/offerors may be required to furnish evidence of sufficient financial responsibility to fulfill this contract, and evidence that they have, or can obtain the necessary equipment, manpower, and storage facility to ensure delivery within the parameters of this contract.

Bidders/Offerors must provide at least two (2) references (including names of contact persons and phone numbers) of similar sized contracts serviced during the past 18 months.

EVALUATION CRITERIA:

	Possible <u>Points</u>
1. Contractor Qualifications (Certifications, etc. – <i>Attach copies</i>)	30
2. Experience (Years in Recycling Business, previous clients)	35
3. References	20
4. Cost Proposal	<u>15</u>
TOTAL Possible Points	100

The Terms and Conditions are incorporated herein by reference.

End of specifications

PROPOSAL FORM
LEA COUNTY, NEW MEXICO

RECYCLING OF TIRES & TUBES
LEA COUNTY LANDFILL & HOBBS CONVENIENCE CENTER

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DUE DATE: OCTOBER 25, 2017 - 3:00 P.M.

COMPANY NAME: _____

1. Offer must include an original + five (5) copies of your proposal that addresses all “Evaluation Criteria” (Page 7) *in numerical order*.

2. **TOTAL PRICE PER LOAD** : Lea County Landfill, Eunice \$_____ / Load
 N. Hobbs Convenience Center \$_____ / Load

3. **RECYCLING PROCESS** - Describe your recycling process & how the recycled materials (rubber & steel) are used - use additional pages if necessary or attach any literature :

4. **Response Time:** _____ after Lea County's call for pick-up.

NOTE:

- 1) Attach copy of your Contractor's License(s).
- 2) The attached forms must be completed, signed or marked “ N/A”, & returned.
 - a. Campaign Contribution
 - b. Related Party Disclosure
 - c. Debarment Certification
 - d. Non-Collusion Affidavit
 - e. New Mexico Resident Preference Form – *Attach copy of Certificate*
 - f. SAMPLE of Lea County's contract template

Certificate of Liability Insurance : Must be provided by awarded contractor before work begins

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The services offered meet specifications: _____ Yes _____ No

*** If the services offered do not meet specifications, all exceptions or variations are set forth on the following page.**

I have read and understand the Terms and Conditions and Specifications and Contractual Terms. I agree to comply with such and warrant that the services offered are as represented in this Proposal Form. **By signing this form, I verify that I am familiar with all NM Environment Department laws, rules, & regulations regarding the services outline in this RFP – Available at:** <https://www.env.nm.gov/swb/tires.htm> & https://www.env.nm.gov/swb/documents/RIDSTMR_2007.pdf

Signature Name (Typed/Printed)

Company Position

Address Telephone # FAX #

City, State, Zip Tax ID #

E-mail Address

State of _____)
County of _____)ss.

_____(name), being duly sworn, deposes and says that he/she is
_____(title) of _____(company) and all foregoing questions
and all statements herein contained are true and correct.

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My commission expires: _____

OPTIONS, EXCEPTIONS OR VARIATIONS
LEA COUNTY, NEW MEXICO

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Please state each and every option, exception, or variation to the specifications (if any) for the service offered. **Please sign below and return with your offer.**

1) THERE ARE OPTIONS, EXCEPTIONS OR VARIATIONS.

- OR -

Signature

2) THERE ARE NO OPTIONS, ETC. LISTED. The service offered on this Request for Proposals, meet or exceed all Specifications, Terms and conditions as described in said Request for Proposals without exceptions. I understand services not meeting all Specifications, Terms and Conditions will be rejected and all costs will be borne by the seller.

Signature

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to Chapter 81, Laws of 2006, any prospective contractor seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Contract” means any agreement for the procurement of items of tangible personal property, services, professional services, or construction.

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Lea County Public Officials/Commissioners:	Ron Black	Dean Jackson
	Rebecca Long	Don Jones
		Jonathan Sena

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

Signature Date

Title (position)

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature Date

Title (Position)

PROPOSAL FORM
Resident / Veterans Preference Certification

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

Please check one box only

Veteran Resident Businesses:

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

Resident Businesses:

I declare under penalty of perjury that my business is a New Mexico resident business allowing me the 5% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State's Division of the General Services Department the awarded amount involved. I will indicate in the report the awarded amount as a purchase from a public body or as a public works contract from a public body as the case may be.

"I understand that knowingly giving false or misleading information on this report constitutes a crime."

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

Resident Business/Veteran Business Certificate Number: _____

(Signature of Business Representative)*

(Date)

*Must be an authorized signatory for the Business.

The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or un-award of the procurement involved if the statements are proven to be incorrect.

*** * A copy of valid New Mexico Resident Business or New Mexico Veterans' Resident Business Certificate issued by NM Tax & Rev must be included in order to receive preference.**

NON-COLLUSION AFFIDAVIT

STATE OF _____)

County OF _____)

_____ (name) being first duly sworn, deposes and says

that he/she is (title) _____

of (organization) _____

who submits herewith to the County of Lea, a proposal:

That all statements of fact in such proposal are true:

That said proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation;

That said bidder has not, directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of the County of Lea, or of any bidder of anyone else interested in the proposed contract; and further,

That prior to the public opening and reading of proposal, said bidder:

1. Did not directly or indirectly, induce or solicit anyone else to submit a false or sham proposal
2. Did not directly or indirectly collude, conspire, connive or agree with anyone else that said bidder or anyone else would submit a false or sham proposal, or that anyone should refrain from bidding or withdraw his proposals;
3. Did not in any manner, directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the proposal price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of their proposal price, or of that of anyone else;
4. Did not directly or indirectly, submit his proposed price or any breakdown thereof, or the contest thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association organization, bid depository or to any member or agent thereof, or to any individual of group of individuals, except that County of Lea, or to any person or persons who have a partnership or other financial interests with said bidder in his business.

By: _____

Title _____

SUBSCRIBED and sworn to before me this _____ day of _____, 20_____.

Notary Public: _____

My Commission Expires:

Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Offeror certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three year period preceding this proposal been convicted of, had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State Antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any offenses; and
4. Have not within a three-year period preceding this application/proposal had one or more public transaction (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. Under 18USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Signature of Authorized Representative

Date

Typed Name & Title of Authorized Representative

Related Party Disclosure Form

1. Are you indebted to or have a receivable from any member of the Board of County Commissioners; elected county officials, administration officials, department heads, and key management supervisors with the County of Lea?

Yes _____ No _____

2. Are you, or any officer of your company related to any member of the Board of County Commissioners; elected county officials, administration officials, department heads, key management supervisors of the County of Lea and have you had any of the following transactions since January 1, 2008, to which Lea County was, is to be, a party?

	Yes	No
Sales, Purchase or leasing of property ?	___	___
Receiving, furnishing of goods, services or facilities?	___	___
Commissions or royalty payments	___	___

3. Does any member of the Board of County Commissioners; elected county officials, administration officials, department heads, key management supervisors with the County of Lea, have any financial interest in your company whether a sole proprietorship, partnership, or corporation of any kind that currently conducts business with the County of Lea?

Yes _____ No _____

4. At any time from January 2008 through the present, did you, your company, or any officer of your company have an interest in or signature authority over a bank account for the benefit of a member of the Board of County Commissioners; elected county officials, administration officials, department heads, key management supervisors with the County of Lea?

Yes _____ No _____

5. Are you negotiating to employ or do you currently employ any employee, officer or family member of an employee or officer of County of Lea?

Yes _____ No _____

The answers to the foregoing questions are correctly stated to the best of my knowledge and belief.

Signature of Owner or Company President: _____ **Date** _____

(Print Name and Title): _____

CONTRACT # _____
 Effective Date: _____

LEA COUNTY CONTRACT FOR GOODS AND SERVICES

This Contract is entered into between Lea County, hereinafter referred to as the "County," and "Contractor" described below, collectively the "Parties", to provide services on behalf of Lea County.

Contractor Legal Name: _____

Services Summary Description: _____

Initial Period of Performance shall be through: _____

Pre-GRT, Total Annual Charges to this contract may not exceed: _____

This Contract complies with New Mexico and County procurement requirements as follows:

- RFP # _____, BOCC approval date _____
- Bid # _____, BOCC approval date _____
- "Qualified" Professional Service, \$60,000 or less annually. Qualifications attached.
- Three Written Quotes \$60,000 or less annually. \$20,000 or less annually.
- Sole – Source Emergency Procurement
- Other: Revenue; non-financial MOA; or _____

No services shall be rendered nor shall any goods be provided until this contract has been executed by all parties, regardless of the indicated effective date.

NOTICES: All correspondence regarding this contract shall be sent to:

Lea County Government	Contractor:
Department:	ATTN:
ATTN:	Title:
Street: 100 N. Main, Ste 4	Street:
City, State, Zip: Lovington, NM 88260	City, State, Zip:
Phone:	Phone:
Fax:	Fax:
Cell:	Cell:
Email:	Email:

ARTICLE 1 - SERVICES AND/OR GOODS TO BE PROVIDED: For RFP or Professional Services contracts, the Contractor shall provide services to the County on matters relating to the contractor's specialized areas of expertise as defined in this Contract and its referenced or incorporated Attachments. Negotiated fees are fixed for the first year. Price adjustments thereafter are subject to review and written determination on an individual contract basis.

For Sealed Bid / Indefinite Quantity contracts, the Contractor shall have the item(s) or service(s) available, as defined in this contract, on an "as ordered" basis. No funds are obligated under

Sealed Bid / Indefinite Quantity contracts. Funds for Sealed Bid / Indefinite Quantity contracts are obligated by purchase orders on an “as needed” basis. Prices are fixed for the first year of a Sealed Bid / Indefinite Quantity contract. Thereafter, in the event of a product cost increase an escalation request will be reviewed by the County on an individual basis. Escalation requests are only to compensate for an actual cost increase and will not be considered for an increase in profit margin.

All Contractors shall secure and remain current on all insurances, licenses, permits, certificates, fees, etc., required for the performance of this contract.

ARTICLE 2 - CONTRACT DOCUMENTS: The Contract shall be comprised of this contract document, its Attachments and all documents referenced herein. As applicable, the Contract shall also include all Proposal or Bid documents, including the Contractor’s responses, Reference Specifications, Special Conditions, Technical Specifications, Standard Details, any addenda thereto, and all negotiation records, all of which are incorporated herein and made a part of the Contract.

In instances where there exists a conflict between any of the Contract documents described above, this Contract plus attachments hereto, negotiation records, the County’s solicitation documents, and the Contractor’s response to the solicitation, in that order, shall control the interpretation of the parties’ respective rights and obligations.

ARTICLE 3 - PERIOD OF PERFORMANCE: The period of performance of this Contract shall commence _____ **or date of last signature, whichever is later**, and continue through the Initial Period of Performance date detailed above. If stipulated in a formal Proposal or Bid solicitation by the County, this Contract may be renewed for up to _____ additional years, not to exceed a total of _____ years.

ARTICLE 4 - PLACE OF PERFORMANCE: The Contractor shall provide the required services or goods for Lea County when and where appropriate or as required by the County.

ARTICLE 5 - COST AND PAYMENT: The Contractor shall be paid for services rendered satisfactorily per the negotiated fee(s) and payment schedules incorporated hereto in applicable attachments, including Attachments A and B. All payments will be in arrears. Payment shall be made per request upon receipt of a detailed invoice that shall include description of work completed or goods delivered pursuant to the deliverable(s) agreements and measures of attainment of this contract for the period covered by the invoice. The invoice submitted shall note the purchase order number and this Contract number and may be delivered to the Department contact specified in “Notices” above. The County shall pay to the Contractor the New Mexico Gross Receipts Tax on labor and services only as levied on the amounts invoiced and payable under this contract. The Contractor will pay the New Mexico Gross Receipts Tax levied on the amounts payable under this contract and remitted to them by Lea County to the appropriate state agency.

ARTICLE 6 - AMENDMENTS: This Contract shall not be altered, changed, or amended except by written instrument signed by both parties.

ARTICLE 7 - ASSIGNMENT: The Contractor shall not assign nor delegate specific duties as part of this Contract nor transfer any interest nor assign any claims for money due or to become due under this Contract without the written consent of the County.

ARTICLE 8 - BINDING EFFECT OF CONTRACT: Both Parties agree that the terms of this Contract and any extension or renewal thereof shall extend to and be binding upon the

administrators, assigns, successors, and transferees of the contracting parties.

ARTICLE 9 - COMPLIANCE WITH GOVERNING LAW: This Contract shall be construed in agreement with New Mexico law. The Contractor shall keep fully informed of and shall also comply with all applicable federal, state, and local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed, or the work, or which in any way affect the conduct of the work. By way of illustration, but not of limitation, the Contractor shall comply with laws relating to employment eligibility including: the Immigration Reform and Control Act of 1986 (Public Law 99-603) and the Immigration Act of 1990 (Public Law 101-649) regarding employment verification and retention of verification forms for any individual(s) hired on or after November 6, 1986, that will perform any labor or services under this Contract. The Contractor shall comply with all federal statutes relating to non-discrimination including, but not limited to: Title VII of the Civil Rights Act of 1964 (Public Law 88-352), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, as amended [20 U.S.C.A. Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112)], which prohibits discrimination on the basis of handicap; the Age Discrimination in Employment Act of 1967 (Public Law 90-202), as amended; the Americans with Disabilities Act of 1990 (Public Law 101-336); and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts, especially 45 CFR Part 80 (relating to race, color, and national origin), 45 CFR Part 84 (relating to handicap), 45 CFR Part 86 (relating to sex), and 45 CFR Part 91 (relating to age).

ARTICLE 10 - CONFIDENTIAL INFORMATION: Any confidential information, not subject to disclosure under the Inspection of Public Records Act, given to or developed by the Contractor, its officers, directors, employees, agents, or sub-consultants in the performance of this Contract will be kept confidential and will not be made available to any individual, organization, or other entity by the Contractor without prior written approval of the County.

ARTICLE 11 - CONFLICT OF INTEREST: The Contractor warrants that it presently has no interest and shall not acquire any interest during the term of this Contract which would have the potential to conflict with the performance of the services required under this Contract. In the event such a conflict arises, it shall immediately be brought to the attention of the County and appropriate action acceptable to the County shall be taken. The Contractor's failure to inform the County of the existence of a potential conflict of interest constitutes default and shall be grounds for immediate termination of Contract by the County.

ARTICLE 12 - CONFLICTS OF LAW: If any provision of this contract conflicts with governing federal or state law or County ordinances, then that law or ordinance shall supersede the conflicting provision of this contract.

ARTICLE 13 - HIPAA COMPLIANCE: As applicable, the parties agree to comply with the provision of the Health Insurance Portability and Accountability Act of 1996, and related regulations, as amended ("HIPAA") in the event the Contractor receives patient records or information (Protected Health Information as defined by HIPAA).

ARTICLE 14 - INDEMNIFICATION AND HOLD HARMLESS AGREEMENT:
Non-Governmental Entity The Contractor shall hold harmless, indemnify and defend the County and its "public employees" as defined in the New Mexico Tort Claims Act, Sections 41-4-1 to 41-4-29, NMSA 1978, as amended, against and from any and all claims, losses, demands, judgments, damages, liabilities, lawsuits, expenses, attorneys fees, costs or actions of any kind resulting from or related to the Contractor's intentional acts, errors or omissions in the Contractor's performance under this contract. The Contractor's agreement to hold harmless, indemnify and defend shall not be affected or terminated by the cancellation, expiration of the

term or any renewal or any other modification of the Contract for any reason and shall survive the cancellation, expiration of the term or any renewal or any other modification of this contract, acts, errors or omissions to act occurring during the term of this contract.

Governmental Entity: Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Contract. Any liability incurred in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA, 1978 § 41-4-1 et. seq. and its amendments, where applicable.

ARTICLE 15 - INDEPENDENT CONTRACTOR: Nothing in this Contract is intended or should be construed in any way to create or establish a partnership relationship between the Parties or to establish the Contractor as an agent, representative, or employee of the County for any purpose or any manner whatsoever. Contractor and its employees shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of the County. Contractor is an independent contractor of the County. The Contractor, its officers, directors, employees, servants, agents, or representatives are not and shall not be deemed employees of the County and shall not bind the County in any respect.

ARTICLE 16 - INSURANCE: For the duration of the contract and until all work specified in the contract is completed, the Contractor shall maintain in effect current Certificates of all insurance as required below and comply with all limits, terms and conditions stipulated therein. The County shall be named as an additional insured as stipulated. Contractor's who are required to provide Certificate(s) of Insurance, must provide a new current Certificate(s) no less than annually. As applicable, work under this contract shall not commence until evidence of all required insurance is provided to the respective County Department for inclusion with this Contract. All insurance shall be written to conform to the requirements stipulated. Evidence of such insurance shall consist of a completed certificate of insurance, signed by the insurance agent for the Contractor and returned to the County attesting that all required insurance is in effect. If for any reason any material change occurs in the coverage during the course of the contract such change will not become effective until 30 days after the County has received written notice of such change.

Required Insurance: As specified in the **RFP, BID documents or Attachment A.**

ARTICLE 17 - KEY PERSONNEL: The Contractor shall identify all key personnel assigned to the performance of this Contract in Section II, Attachment H of this Contract. Key personnel may not be changed without prior written approval of the County Manager and inclusion of that written approval in the official Contract File in the County Purchasing Department.

ARTICLE 18 - MEDIATION: In the event that a dispute arises with respect to any of the provisions contained in this Contract or any other matter affecting this contractual relationship between the County and the Contractor, the Parties agree that prior to filing any court action to enforce the Contract or rights under the Contract, they will use the services of a mediator. The mediator shall either be certified as a mediator or shall have experience as a mediator. The parties shall mutually agree upon the choice of mediator. In the event the Parties have not agreed to a mediator within three days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the Court or other professional association, and the Parties shall use a striking process until a mediator is agreed upon. Each party shall be responsible for their respective mediation costs.

ARTICLE 19 - MERGER OF PRIOR CONTRACTS: This Contract incorporates all the conditions, contracts, agreements, and understandings of the Parties concerning the subject matter of this Contract. All such conditions, understandings, and agreements have been merged into this written Contract. No prior condition, contract, agreement, or understanding, verbal or

otherwise, shall be valid or enforceable unless embodied in this Contract, either explicitly or by reference.

ARTICLE 20 - NON-APPROPRIATION: The County's obligation to make payment under the terms of this Contract is contingent upon its appropriation of sufficient funds to make those payments and the NM Department of Finance's (DFA) final approval of the County's budget. If the County does not appropriate sufficient funds or DFA does not approve the County's final budget, this Contract will terminate upon written notice of that effect to the Contractor. The County Board's determination that sufficient funds have not been appropriated, through Board of County Commissioners or DFA action, is firm, binding, and not subject to review.

ARTICLE 21 - NOTICE TO PROCEED OR COMMENCEMENT OF WORK: It is expressly understood that this Contract is not binding upon the County until approved and signed by the County and, further, that the Contractor shall not proceed with its obligations until the Contract has been signed by all Parties.

ARTICLE 22 - PARAGRAPH HEADINGS: Paragraph headings are for convenience and reference and are not intended to limit the scope of any provision of this Contract.

ARTICLE 23 - PERSONAL LIABILITY: No elected or appointed official, employee, servant, agent, or law enforcement officer of the County shall be held personally liable under this Contract or any extension or renewal thereof because of its enforcement or attempted enforcement, provided they are acting within the course and scope of their employment or governmental duty and responsibility.

ARTICLE 24 - PROCUREMENT CODE: The Procurement Code, § 13-1-25 through § 13-1-199, NMSA 1978 as amended, imposes civil and criminal penalties for its violation. In addition, New Mexico Criminal Statutes impose felony penalties for illegal bribes, gratuities and kickbacks. Pursuant to the above, it is unlawful for any Contractor to engage in bribery, offering gratuities with the intent to solicit business, or offering or accepting kickbacks of any kind. All other similar act(s) of bribes, gratuities, and/or kickbacks are likewise prohibited.

ARTICLE 25 - PROPRIETARY INFORMATION: All documents, writings, electronic formats, drawings, designs, specifications, notes, project manuals, or related documents and other work developed in the performance of this Contract by the Contractor shall become the sole property of the County whether the activity for which they are developed is implemented or not. The Contractor shall provide the County with a complete set of all such proprietary information as requested by the County, but no later than the effective termination date of the contract. Contractor is strictly prohibited from reproducing, duplicating or printing any such proprietary information in any format for personal or monetary recognition, use or gain without the advance written permission of the County.

ARTICLE 26 - RECORD KEEPING AND AUDITS: The Contractor shall compile, maintain, and make available for inspection all records relating to the services to be provided under this Contract. These records shall be subject to inspection by the County or designated auditor. The County shall have the right to audit billings both before and after payment; payment under this Contract shall not foreclose the right of the County to be reimbursed any excessive or illegal payment amounts made to the Contractor during the term of this Contract. Pursuant to State of New Mexico General Records Retention requirements, Contractor will retain all original, source and supporting documents and records related to this contract for a minimum of six (6) years after the ending date of this contract.

ARTICLE 27 - RELEASE: The Contractor, upon final payment of amounts due under this

Contract for work completed and accepted by the County, releases the County, its officers and employees from all liabilities, claims, and obligations whatsoever arising from or under this Contract. The Contractor agrees not to bind the County to any obligation not assumed in this Contract by the County, unless the Contractor has express written authority from the County Manager to do so, and then only within the limits of the expressed written authority.

ARTICLE 28 - SEVERABILITY: If any clause or provision of the Contract is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, then it is the intention of the parties hereto that the remainder of the Contract shall remain in full force and effect. However, in the event that either Party can no longer reasonably perform pursuant to the remaining Contract terms, or if the purpose of the Contract can no longer be carried out by either Party, the Contract may be voided and no damages shall accrue to either party.

ARTICLE 29 - SOVEREIGN IMMUNITY:

Non-Governmental Entity: By entering into this Contract, the County and its "public employees" as defined in the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1 through 41-4-29, as amended, do not waive sovereign immunity, do not waive any defense, and do not waive any limitations of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act, *supra*.

Governmental Entity: By entering into this Contract, the County and the Governmental Entity Contractor do not waive sovereign immunity, do not waive any defense and do not waive any limitations of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act, *supra*.

ARTICLE 30 - SUBCONTRACTING: This Contract is based on the personal skills and reliability of the Contractor as known by the County at the time of execution of this Contract. The Contractor shall not subcontract out any portion of the services to be performed under this Contract without the prior written approval of the County Manager and inclusion of that written approval in the official Contract File in the County Purchasing Department. The written approval shall minimally include disclosure of the name of the individual(s) to be contracted, a statement of the individual(s) qualifications and a justification of the request to subcontract.

ARTICLE 31 - TERMINATION: The County may terminate this contract for convenience, in whole or in part, by providing written notice to the Contractor thirty (30) days prior to termination. In the event of contract termination, the Contractor shall be paid for work completed to the date of termination. In no event shall the dollar amount to be paid upon termination exceed a total of the maximum contracted amount and any additional amount provided for by amendment(s).

- a. Where a Party to this Contract has committed a major breach that is capable of remedy, the Party who is not in breach may serve a written notice, with a fixed period in which to remedy the breach. The period given shall be determined at the sole discretion of the Party serving the notice but subject to a minimum period of two weeks.
- b. The County and Contractor shall have the right, such right being exercised at their absolute discretion, to terminate this Contract, in writing, if a major breach has been committed that can not be remedied. Further, the Parties may terminate this contract, in writing, if a breach has not been remedied to the reasonable satisfaction of the Party serving the notice of breach within the period specified in any such notice.

ARTICLE 32 - THIRD PARTY BENEFICIARY: It is agreed between the Parties executing this Contract that it is not intended by any of the provisions of this Contract to create on behalf of the public or any member thereof the status of third party beneficiary nor to authorize anyone not

a party to the agreement to maintain a suit based upon this Contract.

ARTICLE 33 - WAIVER: Any waiver by the County of any breach of any covenant, term, condition, or agreement in this Contract to be kept and performed by Contractor shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent County from declaring a default for any succeeding breach either of the same covenant, term, condition, or agreement or another. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

ARTICLE 34 - DUPLICATE ORIGINALS: This document shall be executed in no less than two (2) counterparts, each of which shall be deemed an original.

SIGNATURES:

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized representatives.

LEA COUNTY:

County Manager

Print Name and Title

Date: _____ Date: _____

* * * * *

Contractor's NM Taxation and Revenue Department ID Number: _____

The following Attachments and Addenda have been reviewed and approved by the County Contract Officer or approved designee:

Document Name	Approved	Comments	Notes
Attachment A - Scope of Work			Required all Contracts
Attachment B – Cost per Unit Service			Required all Contracts
Attachment C – Contribution Disclosure			Required all Contracts
Attachment D – Related Party Disclosure			Required all Contracts
Attachment E – Debarment Certification			Required all Contracts
Attachment F - Non Collusion Affidavit			Required all Contracts
Attachment G – Insurance Certificates			By Attachment A Specifications
Attachment H – 1. Business License(s) 2. Professional Licenses 3. Staff Resumes			1. Required All Contracts 2. Required Licensed Professionals 3. Required all contracts
Attachment I – Procurement Method			Purchasing Dept. Determines
Attachment J - Other			Purchasing Dept. Determines

**THE FOLLOWING PAGES INCLUDE SAMPLE
NM ENVIRONMENTAL DEPARTMENT (NMED) FORMS,**

WHICH CAN ALSO BE FOUND AT

<https://www.env.nm.gov/swb/tires.htm>



SUSANA MARTINEZ
Governor
JOHN A. SANCHEZ
Lt. Governor

**NEW MEXICO
ENVIRONMENT DEPARTMENT**

1190 Saint Francis Drive, Room N2150
P.O. Box 5469
Santa Fe, New Mexico 87502-5469
Phone (505) 827-0197 Fax (505) 827-2902
www.env.nm.gov



BUTCH TONGATE
Cabinet Secretary
J. C. BORREGO
Deputy Secretary

SCRAP TIRE HAULER REGISTRATION FORM

In accordance with the New Mexico Recycling, Illegal Dumping and Scrap Tire Management Rule ("RIDSTMR"), 20.9.20.26 through 20.9.20.32 NMAC, scrap tire haulers shall register with the New Mexico Environment Department ("NMED") at least thirty (30) days prior to operations and every five (5) years thereafter. To register as a scrap tire hauler, complete this application form providing all required information, including an original \$10,000 surety bond. Mail the completed application to the address above. Assistance and information is available by contacting the NMED Solid Waste Bureau's Tire Program Coordinator at (505) 827-0559.

I. GENERAL INFORMATION:

A. LEGAL BUSINESS NAME OF SCRAP TIRE HAULER:

NAME _____

NAME OF OWNER – Not required if a corporation or LLC _____

DRIVER'S LICENSE NUMBER OF OWNER & STATE OF ISSUE – Not required if a corporation or LLC _____

B. MAILING ADDRESS: _____

C. PHYSICAL STREET ADDRESS WHERE VEHICLES WILL BE HOUSED (IF different from the mailing address):

D. ZONING OF SITE(S) WHERE VEHICLES WILL BE HOUSED: [NOTE: Contact your local code enforcement/planning department, county manager or other land use authority.]

E. BUSINESS TELEPHONE: _____

F. E-MAIL ADDRESS (if available): _____

G. CONTACT PERSON INFORMATION:

NAME TELEPHONE

ADDRESS CITY/STATE/ZIP CODE

E-MAIL ADDRESS (if available)

II. INSURANCE (Information in this section pertains only to vehicle liability insurance):

A. NAME OF INSURANCE COMPANY: _____

B. ADDRESS: _____

C. POLICY NUMBER, AMOUNT OF LIABILITY INSURANCE, EFFECTIVE AND EXPIRATION DATES:

_____ Policy Number	_____ Amount (\$)	_____ Effective Date	_____ Expiration Date
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III. OPERATIONS:

A. ANTICIPATED START DATE OF OPERATION (for new haulers), HOURS AND DAYS OF COLLECTION:

_____ Anticipated Start Date	_____ Hours of Collection	_____ Days of Collection
---------------------------------	------------------------------	-----------------------------

B. List the names, locations and NMED-issued permit or registration numbers for all permitted or registered tire recycling or solid waste facilities, permitted civil engineering applications, and permitted land reclamation projects to which the scrap tires will be transported. [NOTE: For beneficial agricultural use locations, list the site location, nature of the project and the project owner's contact information.]

IV. TIRE STORAGE SITES:

- A. PHYSICAL LOCATION OF ALL TEMPORARY SCRAP TIRE STORAGE FACILITIES. *[NOTE: If the hauler uses a temporary storage facility to separate scrap tires from reusable tires, a permit is required if more than 100 scrap tires will be stored at this location at any one time. If a permit is necessary, the application may be obtained by pointing your browser to <https://www.env.nm.gov/swb/tires.htm> or you may call the NMED Solid Waste Bureau's Tire Program Coordinator at (505) 827-0559.]*
-
-

- B. ZONING OF TEMPORARY SCRAP TIRE STORAGE SITES. *[NOTE: Contact your local code enforcement/planning department, county manager or other land use authority.]*
-

V. BONDING:

APPLICANTS MUST ENCLOSE WITH THIS APPLICATION A SURETY BOND IN THE AMOUNT OF \$10,000.00 WITH ORIGINAL SIGNATURES AND NOTARY SEAL, USING THE FORM APPROVED BY THE NMED. The form is available by pointing your browser to <https://www.env.nm.gov/swb/tires.htm>. Contact your local insurance agent to obtain the bond. The NMED will accept a bond with this form from any New Mexico licensed surety; you are not obligated to use any particular company. The Solid Waste Bureau ("SWB") recommends sending your bond application by USPS certified mail.

VI. CERTIFICATIONS:

- A. I certify that all drivers and vehicles are, and will continue to be, properly licensed and registered. _____
Initials
- B. I certify that each shipment of ten or more scrap tires shall be accompanied by a scrap tire manifest that complies with 20.9.20.50 NMAC in a format approved by the NMED. _____
Initials
- C. If this application includes a temporary scrap storage site, I certify that no more than 100 scrap tires will be stored at any one time unless the site is a permitted Tire Recycling/Storage Facility. _____
Initials
- D. If this application includes a temporary scrap tire storage site, I certify that all scrap tires will be separated from reusable tires and that the scrap tires will not be stored for a period exceeding 72 hours. _____
Initials

E. If this application includes a temporary scrap tire storage site, I certify that the location meets all zoning and land use regulations and any applicable restrictive covenants. _____
Initials

F. Have any of the applicant's owner(s) or operator(s) been fined for violation of any environmental laws of any state or the United States? _____ Yes _____ No
Initials Initials

G. Have any of the applicant's owner(s) or operator(s) had any permit or registration revoked or permanently suspended for cause under environmental laws of any state or the United States? _____ Yes _____ No
Initials Initials

VII. The undersigned attests that the information provided upon this registration form, including all attachments, is true and correct.

SIGNATURE and TITLE

DATE

MAKE A COPY AND RETURN THIS FORM AND ALL REQUIRED ATTACHMENTS TO:

Attention – Tire Program Coordinator
NMED Solid Waste Bureau, Room N-2150
1190 St. Francis Drive
P.O. Box 5469
Santa Fe, New Mexico 87502-5469

[Revised 2/22/2017]

STATE OF NEW MEXICO SCRAP TIRE MANIFEST

Manifest No. _____

New Mexico Environment Department, Solid Waste Bureau, P.O. Box 5469, Santa Fe, New Mexico 87502-5469, (505) 827-0559

1. GENERATOR INFORMATION AND CERTIFICATION

Generator (Business Name) _____ Contact Name _____ Telephone Number _____

Street Address _____ Mailing Address _____ City, State, Zip Code _____

Name of Final Destination _____ Passenger Tires: # _____ or Weight _____ Pounds Tons (check one)Truck Tires: # _____ or Weight _____ Pounds Tons (check one)Has the generator been charged for the service? Yes No (check one)*I affirm that the information provided above is truthful and accurate. I am aware that falsification of this manifest may result in enforcement action.*

Generator or Authorized Agent (Printed): _____ Signature: _____ Date: _____

2. HAULER INFORMATION AND CERTIFICATION

Company Name _____ Contact Name _____ Telephone Number _____ NMED Hauler Registration No. _____

Street Address _____ Mailing Address _____ City, State, Zip Code _____

I affirm that the information provided above is truthful and accurate. I am aware that falsification of this manifest may result in enforcement action.

Name of Driver (Printed): _____ Signature: _____ Date: _____

3. SECOND HAULER (if applicable) INFORMATION AND CERTIFICATION

Company Name _____ Contact Name _____ Telephone Number _____ NMED Hauler Registration No. _____

Street Address _____ Mailing Address _____ City, State, Zip Code _____

I affirm that the information provided above is truthful and accurate. I am aware that falsification of this manifest may result in enforcement action.

Name of Driver (Printed): _____ Signature: _____ Date: _____

4. TIRES REMOVED BY HAULER FOR RESALE / REUSE

Company Name _____ Contact Name _____ Telephone Number _____

Street Address _____ Mailing Address _____ City, State, Zip Code _____

Passenger Tires Removed: # _____ or Weight _____ Pounds Tons (check one)Truck Tires Removed: # _____ or Weight _____ Pounds Tons (check one)*I affirm that the information provided above is truthful and accurate. I am aware that falsification of this manifest may result in enforcement action.*

Printed Name of Driver: _____ Driver's Signature: _____ Date: _____

5. FINAL DESTINATION

Company / Facility Name _____ Contact Name _____ Telephone Number _____ Permit or Registration No. _____

Street Address _____ Mailing Address _____ City, State, Zip Code _____

Passenger Tires Received: # _____ or Weight _____ Pounds Tons (check one)Truck Tires Received: # _____ or Weight _____ Pounds Tons (check one)Weight of Mixed Load of Passenger and Truck Tires Received _____ Pounds Tons (check one)*I affirm that the information provided above is truthful and accurate. I am aware that falsification of this manifest may result in enforcement action.*

Final Destination Representative (Printed) _____ Signature _____ Date _____

Discrepancy Block / Special Instructions: _____

SCRAP TIRE HAULER BOND

Bond Number:

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____ as Principal,
(Principal Name Exactly as it appears on registration)
and _____ Incorporated under the laws of the State of
(Surety)

_____, duly authorized and licensed to transact surety business in the State of New Mexico, as Surety, are held and firmly bound unto the State of New Mexico, Secretary of The New Mexico Environment Department (Obligee) in the penal sum of TEN THOUSAND DOLLARS (\$10,000) ("Bond") lawful money of the United States, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly, by these presents. This Bond is issued subject to the laws and jurisdiction of the State of New Mexico.

WHEREAS, the said Principal has applied to the Obligee for a certificate of registration to haul scrap tires in the State of New Mexico,

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the Obligee finds that the Principal has failed to comply with the provisions of the Solid Waste Act ("SWA"), NMSA 1978, 74-1-1 *et seq.*, the Recycling and Illegal Dumping Act ("RIDA"), NMSA 1978, § 74-13-1 *et seq.*, or 20.9.2-10, and 20 NMAC ("Regulations"), and the Obligee has further found that the Principal is liable for penalties, clean-up costs, or judgments resulting from scrap tire hauling activities in violation of the SWA, the RIDA, or the Regulations, then, the Surety shall pay up to the full amount of the Bond at the direction of the Obligee. This bond shall be one continuing obligation, and the liability of the Surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed \$10,000. The Principal shall remain jointly and severally liable for the full amount of any penalties, clean-up costs or judgments resulting from scrap tire hauling activities in violation of the SWA, the RIDA, or the Regulations.

CANCELLATION: Surety may cancel this bond by written notice served by certified mail upon the State of New Mexico, New Mexico Environment Department, Solid Waste Bureau Chief, specifying the effective date of said cancellation, which in no event shall be less than sixty (60) days after the date said notice is received by Obligee.

Signed, sealed and dated this _____ day of _____ 20 _____.

Principal

Surety

(Principal Name)

(Surety name exactly as licensed with State of New Mexico)

By: _____

By: _____

Attorney-in-Fact

Name & Title: _____

(must attach power of attorney)

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 20 RECYCLING, ILLEGAL DUMPING AND SCRAP TIRE
MANAGEMENT

20.9.20.1 ISSUING AGENCY: New Mexico Environmental Improvement Board.
[20.9.20.1 NMAC - Rp, 20 NMAC 9.2.I.101, 8/2/2007]

20.9.20.2 SCOPE: This part applies to the transporting, processing, storage, recycling, use, abatement, and generation of scrap tires. It establishes eligibility criteria for the Recycling and Illegal Dumping Fund. With the exception of 20.9.20.45 NMAC, 20.9.20.50 NMAC, 20.9.20.55 NMAC, 20.9.20.60 NMAC, and 20.9.20.63 NMAC, this part does not apply to permitted or registered solid waste facilities, registered recycling facilities, composting facilities or collection centers. A registered recycling facility, composting facility or collection center that stores 20,000 or more scrap tires or processes 200,000 or more scrap tires per year shall also comply with the requirements of 20.9.20.57 - 20.9.20.59 NMAC.
[20.9.20.2 NMAC - Rp, 20 NMAC 9.2.I.102, 8/2/2007]

20.9.20.3 STATUTORY AUTHORITY: This part is adopted under the authority of the Recycling and Illegal Dumping Act, Sections 74-13-1 et seq. NMSA 1978 and the Solid Waste Act, Sections 74-9-1 et seq. NMSA 1978.
[20.9.20.3 NMAC - Rp, 20 NMAC 9.2.I.103, 8/2/2007]

20.9.20.4 DURATION: Permanent.
[20.9.20.3 NMAC - Rp, 20 NMAC 9.2.I.104, 8/2/2007]

20.9.20.5 EFFECTIVE DATE: August 2, 2007, unless a later date is cited at the end of a section.
[20.9.20.5 NMAC - Rp, 20 NMAC 9.2.I.105, 8/2/2007]

20.9.20.6 OBJECTIVE: The objective of the Recycling, Illegal Dumping, and Scrap Tire Management rule is to implement the provisions of the act with the purposes stated in Section 74-13-2 NMSA 1978.
[20.9.20.6 NMAC - Rp, 20 NMAC 9.2.I.106, 8/2/2007]

20.9.20.7 DEFINITIONS: As used in this part, the following definitions apply.

- A. "Abatement"** means to reduce in amount, degree or intensity or to eliminate.
- B. "Act"** means the Recycling and Illegal Dumping Act, Sections 74-13-1 et seq. NMSA 1978.
- C. "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, as defined in the act.
- D. "Alliance"** means the recycling and illegal dumping alliance.
- E. "Board"** means the environmental improvement board.

F. "Civil engineering application" means the use of scrap tires or other recycled material in conjunction with other aggregate materials in engineering applications.

G. "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.

H. "Cooperative association" means a refuse disposal district created pursuant to the Refuse Disposal Act, Sections 4-52-1 et seq. NMSA 1978; a sanitation district created pursuant to the Water and Sanitation District Act, Sections 73-21-1 et seq. NMSA 1978; a special district created pursuant to the Special District Procedures Act, Sections 4-53-1 et seq. NMSA 1978; or other associations created pursuant to the Joint Powers Agreements Act, Sections 11-1-1 et seq. NMSA 1978; or the Solid Waste Authority Act, Sections 74-10-1 et seq. NMSA 1978.

I. "Department" means the New Mexico environment department.

J. "Dispose" means to deposit scrap tires or solid waste into or on any land or water.

K. "Hauler's temporary storage facility" means a facility where less than 100 scrap tires are stored for no more than 72 hours by a registered scrap tire hauler or registered commercial hauler for the purpose of separating scrap tires from tires that will be reused for their original purpose.

L. "Household" means any single and multiple residence, hotel or motel, bunkhouse, ranger station, crew quarters, campground, picnic ground or day-use recreation area.

M. "Illegal dumping" means disposal of trash, scrap tires or any solid waste in a manner that violates the Solid Waste Act or the Recycling and Illegal Dumping Act.

N. "Illegal dumpsite" means a place where illegal dumping has occurred.

O. "Land reclamation" means the filling and restoring of excavated land for the purpose of restoring the land to its approximate natural grade and to prepare or reclaim the land for re-use. Disposal of scrap tires in a permitted or registered solid waste facility is not "land reclamation."

P. "Land reclamation project" means a civil engineering application designed to fill and restore land which had been excavated before the project and was not excavated for the burying of scrap tires, and does not include bank stabilization and erosion control projects.

Q. "Market development" means activities to expand or create markets for recyclable and reusable materials.

R. "Modify" means to change the terms or conditions of a permit or registration including:

- (1) any change in the fundamental method of processing of scrap tires;
- (2) any lateral or vertical expansion or alteration of the storage areas of the scrap tires, used tires, or tire derived products;
- (3) storage of scrap tires, used tires, or tire derived products beyond the permitted or registered boundaries; but
- (4) "modify" does not include:
 - (a) routine maintenance, repair, or replacement;
 - (b) an increase in the process rate, if such increase does not exceed the design capacity of the tire recycling facility, civil engineering application or violate any condition of the permit;

(c) a change in the hours of operation, unless such hours are specified in a permit condition;

(d) a change in the operating plan that is not the subject of a permit condition; and

(e) temporary changes allowed by the secretary under Subsection B of 20.9.20.39 NMAC and Subsection D of 20.9.20.41 NMAC when there is an imminent danger to public health, welfare, or the environment.

S. "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 semi-trailer.

T. "Operator" means the person(s) responsible for the overall operation or construction of all or any portion of a tire recycling facility, civil engineering application, or business that generates or hauls scrap tires.

U. "Owner" means the person(s) who owns all or part of a tire recycling facility, civil engineering application, or business that generates or hauls scrap tires.

V. "Passenger tire equivalent" or "PTE" is a conversion factor for converting between numbers of scrap tires and weight; for passenger and light truck tires, the total weight of scrap tires, in pounds, divided by 22.5 pounds produces the passenger tire equivalent. For purposes of this part, any numerical requirement associated with scrap tires may be measured in either PTEs or the actual number of scrap tires.

W. "Person" means any individual, partnership, company, corporation, firm, association, trust, estate, or legal entity, including government entities.

X. "Processing" means techniques to change physical, chemical or biological character or composition of solid waste but does not include composting, transformation or open burning.

Y. "Public entity" means:

(1) any state or local government;

(2) any department, agency, special purpose district, or other instrumentality of federal, state or local government; or

(3) any pueblo, tribe or Indian nation.

Z. "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.

AA. "Reusable tire" or "used tire" means a whole tire which has been used but is suitable for reuse for its originally intended purpose and has been specifically separated from scrap tires for reuse or resale. A used tire which appears to be suitable for its originally intended purpose but which has not been separated from scrap tires and stacked either vertically or horizontally shall be considered a scrap tire.

BB. "Reuse" of a tire means the return of a tire to use for its originally intended purpose without a change to its original form.

CC. "Scrap tire" means a tire, including a baled tire, that is no longer suitable for its originally intended purpose because of wear, damage, defect or obsolescence.

DD. "Scrap tire baling" means the process by which scrap tires are mechanically compressed and bound into block form.

EE. "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 beneficial agricultural operations.

FF. "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.

GG. "Scrap tire manifest" means a document containing information as required by, Section 20.9.20.50, that is necessary to transport scrap tires in the state of New Mexico.

HH. "Secretary " means the secretary of the New Mexico environment department or his or her designee.

II. "Storage" or "temporary storage" means storage for a period of time allowed by a permit for storage of scrap tires. Storage or temporary storage does not include a staging area where scrap tires will be staged for 5 days or less during construction.

JJ. "Tire" means a continuous solid or pneumatic rubber covering that encircles the wheel of a motor vehicle.

KK. "Tire-derived fuel" means whole or chipped tires that produce a low sulfur, high-heating-value fuel.

LL. "Tire-derived product" means a usable product produced from the processing of a scrap tire but does not include baled tires.

MM. "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.

NN. "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; or

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

OO. "Vector" means any agent capable of transmitting a disease from one individual or organism to another. Vectors include, but are not limited to, mosquitoes, flies and other insects, rodents, and vermin.

[20.9.20.7 NMAC - Rp, 20 NMAC 9.2.I.107, 8/2/2007]

20.9.20.8 PROHIBITED ACTS:

A. A person shall not store or use in a civil engineering application, except for beneficial agricultural use, more than one hundred scrap tires anywhere in this state, unless the person has a valid permit or registration from the department, or is excluded from the definition of a tire recycling facility pursuant to Subsection NN of 20.9.20.7 NMAC.

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 or

is a facility where tires are stored and used for beneficial 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 permitted tire recycling facility or permitted civil engineering application 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, a registered commercial waste hauler pursuant to the Solid Waste Act, or a self-hauling agricultural operation.

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. A generator, scrap tire hauler or registered solid waste hauler shall not transport scrap tires without possessing a New Mexico scrap tire manifest approved by the department, except as otherwise provided in this part.

I. A person shall not engage in, maintain or allow illegal dumping.
[20.9.20.8 NMAC - Rp, 20 NMAC 9.2.I.108, 8/2/2007]

20.9.20.9 TIRE RECYCLING FACILITIES; ENTRY BY DEPARTMENT;

AVAILABILITY OF RECORDS TO DEPARTMENT: The secretary or any authorized representative, employee or agent of the department may enter, inspect, monitor, sample, or obtain records of a tire recycling facility, civil engineering application, scrap tire generator, or scrap tire hauler as provided in Section 74-13-5 NMSA 1978. The secretary, authorized representative, employee, agent or other law enforcement officer shall present proper identification prior to inspection.

[20.9.20.9 NMAC - Rp, 20 NMAC 9.2.III.301, 8/2/2007]

20.9.20.10 PERMITS FOR SCRAP TIRE STORAGE, RECYCLING FACILITIES, AND CIVIL ENGINEERING APPLICATIONS AND REGISTRATIONS FOR SCRAP TIRE HAULERS:

A. Any person seeking to store more than 100 scrap tires or seeking to construct, operate, or modify a tire recycling facility or civil engineering application that uses more than 100 scrap tires shall first obtain a permit.

B. Any permit or registration for a civil engineering application granted prior to the effective date of these regulations shall remain in effect.

C. Permits are not required for a hauler's temporary storage facility that is used by a registered scrap tire hauler or a registered commercial hauler to separate scrap tires from reusable tires. Such facilities shall be included in the application for registration of the commercial hauler under Subsection A of 20.9.3.31 NMAC or registration of the scrap tire hauler under Subsection I of 20.9.20.26 NMAC.

D. A tire recycling facility or civil engineering application at a permitted or registered solid waste facility is not required to obtain a tire recycling or civil engineering application permit.

E. The department shall maintain a list of permitted and registered solid waste facilities and permitted tire recycling facilities and civil engineering applications on its solid waste bureau website.

[20.9.20.10 NMAC - Rp, 20.9.2.II.200, 8/2/2007]

20.9.20.11 APPLICATION REQUIREMENTS FOR TIRE RECYCLING FACILITY

OR STORAGE PERMITS: Any person seeking a tire recycling facility permit or storage permit to process or temporarily store scrap tires, including tire bales, shall file an application, which shall contain the following information.

A. A site layout plan of the proposed facility drawn to scale that is in compliance with the requirements of 20.9.20.36 NMAC and 20.9.20.37 NMAC. The map shall include at least the following information:

- (1) site/facility name;
- (2) labels of all features shown on the map;
- (3) north arrow;
- (4) map scale;
- (5) all structures and buildings that are or will be constructed at the facility including those used in collection, storage or processing operations;
- (6) location of equipment;
- (7) property boundaries;
- (8) water sources, arroyos, wetlands, ditches and other topographic features;
- (9) wells;
- (10) fences;
- (11) easements, and power lines;
- (12) all access routes and internal roads used for residential, commercial and emergency use;
- (13) loading and unloading areas;
- (14) the location of the areas used for collection of scrap tires, processing of scrap tires, used tires, tire derived products, and residuals from processing; and
- (15) the location and width of fire lanes.

B. The name, mailing address, telephone number and e-mail address, if available, of the proposed facility, facility owner, operator, and property owner.

C. The location of the front gate of the proposed facility in latitude and longitude, as determined by a geographic information system unit or survey, and the physical address, if available.

D. Total acreage of the proposed facility site.

E. A copy of the deed or other legal description of the site.

F. Zoning of the site, and the zoning of all adjacent properties, if applicable.

G. The anticipated start up date of the facility and hours of operation.

H. An emergency contingency plan that meets the requirements of 20.9.20.47 NMAC.

I. An affidavit certifying that the proposed site complies with the applicable regulations of all local governing bodies having jurisdiction over the proposed facility, including planning, zoning, building, code enforcement and drainage departments.

J. Affidavits certifying that all applicable notifications required by 20.9.20.19 NMAC have been published and posted.

K. Any other information deemed applicable and requested by the secretary.

L. The following operational information:

- (1) a list and description of the equipment to be used for handling, processing, recycling, or disposing of scrap tires;
- (2) a detailed narrative of the method of any processing;
- (3) the maximum number of scrap tires to be processed in one year, if applicable;
- (4) the maximum number of scrap tires to be processed in one month, if applicable;
- (5) the maximum number of unprocessed scrap tires that will be located at the site at any one time;
- (6) the maximum number of processed scrap tires that will be located at the site at any one time, if applicable;
- (7) the plans for the transportation of scrap or processed tires or both to and from the site;
- (8) a description of the methods to be employed to prevent, control or contain a tire fire, including a description of the facility's water source and capacity;
- (9) a description of the methods to be employed to monitor and control vectors for scrap and processed tires in storage at the site;
- (10) a description of the method to be used to remove residuals from the site; and
- (11) any other information requested by the secretary.

M. Closure plans pursuant to 20.9.20.51 NMAC and 20.9.20.52 NMAC.

N. All applications shall be signed by the owner and operator, with a statement certifying that all information in the application is true and correct.
[20.9.20.11 NMAC - N, 8/2/2007]

20.9.20.12 ADDITIONAL PERMIT APPLICATION REQUIREMENTS FOR FACILITIES THAT STORE 20,000 OR MORE SCRAP TIRES AT ANY ONE TIME OR PROCESS 200,000 SCRAP TIRES OR MORE PER YEAR: Any person seeking a permit for a facility that stores 20,000 or more scrap tires at any one time or processes 200,000 or more scrap tires per year shall submit the following information in addition to all information required in 20.9.20.11 NMAC:

A. an operation and maintenance manual that addresses all of the operating requirements; and

B. proposed financial assurance to meet the requirements of 20.9.20.57-20.9.20.59 NMAC.

[20.9.20.12 NMAC - N, 8/2/2007]

20.9.20.13 APPLICATION REQUIREMENTS FOR CIVIL ENGINEERING APPLICATION PERMITS:

A. Any person seeking a permit for a civil engineering application that uses 101 to 999 scrap tires and is two (2) bales high or less, other than a commercial feed operation that uses scrap tires as tarp weights, shall comply with the requirements of 20.9.20.36 NMAC and 20.9.20.37 NMAC and file an application which includes the following information. If the civil engineering application applicant has obtained an approval form the U.S. army corps of engineers or construction industries division for the siting or design of the civil engineering application, then it may file only the information in paragraphs (1), (2), (4), (6), (7), (8) and (9) of this subsection.

(1) The name, mailing address, telephone number, and e-mail address, if available, of the applicant, property owner, and builder of the civil engineering application.

(2) The location of the of the civil engineering application, including its physical address if available.

(3) A copy of the deed or other legal description of the property on which the proposed civil engineering application will be constructed.

(4) If different from the civil engineering application site, the location, including the physical address, if available, and the name, mailing address, telephone number, and the e-mail address, if available, of the property owner of the temporary storage site where scrap tires will be stored temporarily before and during construction.

(5) A detailed narrative describing the proposed civil engineering application, unless the civil engineering application has a set of plans signed and stamped by a registered professional engineer.

(6) If the civil engineering application is to be in a floodplain, a waterway, or a wetland, written authorization of the project by the U.S. army corps of engineers or other appropriate authorities.

(7) The anticipated date when scrap tires will be brought to the civil engineering application site or temporary storage site.

(8) The origins, if known, of the scrap tires to be used for the civil engineering application.

(9) The proposed dates of completion of the civil engineering application and removal of scrap tires kept in temporary storage.

(10) The method to be used to anchor scrap tires, if applicable.

(11) The method to be used to cover scrap tires, if applicable.

(12) The method to be used to fill scrap tires; if applicable.

(13) Any other information deemed applicable and requested by the department.

(14) An affidavit certifying that the proposed site complies with the applicable regulations of all local governing bodies having jurisdiction over the proposed facility, including planning, zoning, building, code enforcement and drainage departments.

B. A commercial feed operation that uses over 100 scrap tires for the weighting of tarps shall file an application, which shall include:

(1) the name, mailing address, telephone number, and e-mail address, if available, of the applicant, and property owner where the scrap tires will be used;

(2) the physical address or other description of the location where the scrap tires will be used;

(3) an affirmative statement that the scrap tires will be used only for tarp weights; and

(4) any other information deemed applicable and requested by the department.

C. All applications shall be signed by the applicant, with a statement certifying that all information in the application is true and correct.
[20.9.20.13 NMAC - N, 8/2/2007]

20.9.20.14 ADDITIONAL PERMIT APPLICATION REQUIREMENTS FOR CIVIL ENGINEERING APPLICATION THAT USES 1000 TO 99,999 SCRAP TIRES AND IS NO MORE THAN TWO BALES HIGH: Any person seeking a permit for a civil engineering application that uses 1000 to 99,999 scrap tires and is no more than 2 bales high shall submit an application which includes the following information in addition to that required under 20.9.20.13 NMAC. If the civil engineering application applicant has obtained an approval form the army corps of engineers or construction industries division for the siting or design of the civil engineering application, then it may file only the information required in 20.9.20.13 NMAC.

A. A site layout plan of the proposed civil engineering application that is in compliance with the requirements of 20.9.20.37 NMAC, drawn to scale. The plan shall include at least the following information:

- (1) labels of all features shown on the map;
- (2) map scale;
- (3) north arrow;
- (4) the proposed civil engineering application;
- (5) all structures and buildings at the civil engineering application site if within 100 feet of the civil engineering application;
- (6) temporary storage areas for other material, equipment, and residuals from processing;
- (7) loading and unloading areas for scap tires and other material to be used for the civil engineering project;
- (8) location of all storage areas for scrap tire, tire derived products, used tires and fire lanes;
- (9) property boundaries;
- (10) water sources, arroyos, wetlands, ditches and other topographic features;
- (11) wells;
- (12) fences;
- (13) easements, and power lines; and
- (14) all access routes and internal roads used for residential, commercial and emergency use.

B. If the scrap tires to be used for the proposed civil engineering application will be kept in temporary storage before and during construction on property that is different from the one described in Subsection A of 20.9.20.14 NMAC, the applicant must provide a plat map of the temporary storage facility that includes all items required in Subsection A of 20.9.20.14 NMAC for the civil engineering application.

C. An emergency contingency plan that meets the requirements of 20.9.20.47 NMAC.
[20.9.20.14 NMAC - N, 8/2/2007]

20.9.20.15 PERMIT APPLICATION REQUIREMENTS FOR CIVIL ENGINEERING APPLICATION THAT USES 100,000 SCRAP TIRES OR MORE OR IS MORE THAN TWO SCRAP TIRE BALES HIGH: Any person seeking a permit for a civil engineering

application that uses 100,000 scrap tires or more or is more than two scrap tire bales high shall submit the following information in addition to that required under 20.9.20.14 NMAC:

A. facility plans, elevations, drawings and cross sections of the proposed civil engineering application signed and sealed by a professional engineer registered in New Mexico; and

B. if the scrap tires to be used for the proposed civil engineering application will be kept in temporary storage before and during construction on property that is different from the proposed civil engineering application, demonstration that the temporary storage facility is in compliance with 20.9.20.37 NMAC.

[20.9.20.15 NMAC - N, 8/2/2007]

20.9.20.16 PERMIT APPLICATION REQUIREMENTS FOR CIVIL ENGINEERING APPLICATIONS USING SCRAP TIRES FOR LAND RECLAMATION: Any person seeking a permit for a civil engineering application using scrap tires for land reclamation shall file an application which shall include:

A. the name, mailing address, telephone number and e-mail address, if available, of the proposed land reclamation site, the applicant, and the land reclamation site's property owner;

B. the physical address of the proposed land reclamation site, if available;

C. a copy of the deed or other legal description of the property on which the proposed land reclamation site will be constructed;

D. the anticipated start up date when tires will be brought to the site;

E. the anticipated completion date;

F. the origins, if known, of the scrap tires to be used for land reclamation;

G. a description of other fill materials and their application;

H. a description of compaction methods;

I. the method of placement and commingling of scrap tires below ground mixed in a proportion no greater than 33% scrap tires by volume with soil suitable as fill material;

J. the approximate volume, dimensions and depth of the depression to be filled;

K. the approximate number of scrap tires proposed to be placed in the site;

L. ground storage area that is in compliance with the requirements of 20.9.20.37 NMAC;

M. a description of the final cover;

N. an emergency contingency plan that meets the requirements of 20.9.20.47 NMAC;

O. a letter from the local county official or municipal authority in which the site is or will be located that the applicant has provided notice of the proposed civil engineering application to the county or municipality;

P. a sworn notarized affidavit signed by the property owner certifying that the excavated area, hole or disturbed land area existed before the project and was not excavated for the burying of scrap tires; and

Q. all applications shall be signed by the applicant, with a statement certifying that all information in the application is true and correct.

[20.9.20.16 NMAC - N, 8/2/2007]

20.9.20.17 ADDITIONAL PERMIT APPLICATION REQUIREMENTS FOR CIVIL ENGINEERING APPLICATIONS THAT PLAN TO USE 100,000 OR MORE SCRAP

TIRES PER YEAR FOR LAND RECLAMATION: Any person seeking a permit for a civil engineering application that plans to use more than 100,000 scrap tires per year for land reclamation shall submit the following information in addition to that required under 20.9.20.16 NMAC.

A. Site layout plan of the land reclamation site and any above ground storage areas signed and sealed by a professional engineer registered in New Mexico. The site layout plan shall include at least the following if applicable:

- (1) location of temporary storage areas of scrap tires and tire derived products;
- (2) location of fire lanes and fire control facilities;
- (3) security fencing, gates and gatehouse, site entrance and access roads and fire lanes in accordance with 20.9.20.37 NMAC;
- (4) locations of buildings; and
- (5) locations and descriptions of processing equipment.

B. An operation and maintenance manual that shall address all of the operating requirements.

C. Proposed financial assurance to meet the requirements of 20.9.20.57- 20.9.20.59 NMAC.

[20.9.20.17 NMAC - N, 8/2/2007]

20.9.20.18 PERMIT APPLICATION REVIEW:

A. Upon receipt of an application for a permit, the department shall review the application to determine if additional information is necessary or shall determine the application complete. If the department determines that additional information is necessary, it shall notify the applicant in writing.

B. The applicant shall submit any information requested within 60 days of receipt of a request for additional information, or the application shall be denied without prejudice. The department may extend the response time for good cause. When submitting the information, the applicant shall submit three copies. If the permit application is not complete after two requests for additional information, the secretary may deny the permit application without prejudice.

[20.9.20.18 NMAC - N, 8/2/2007]

20.9.20.19 PUBLIC NOTICES, HEARINGS AND MEETINGS:

A. Within thirty (30) days after an application for a facility that proposes to store 20,000 or more scrap tires at any one time or process 200,000 or more scrap tires per year or a land reclamation project that proposes to use 100,000 or more scrap tires per year is deemed complete, the applicant shall provide public notice. The notice shall be published once in a newspaper of general circulation in the county where the facility is proposed to be constructed, operated or closed. This notice shall appear in either the classified or legal advertisements section of the newspaper and at one other place in the newspaper expected to give the general public effective notice. A notice shall also be posted on the property boundary where the entrance to the facility will be. The posted notice shall be at least 1 1/2 feet by 2 1/2 feet in size with clear, legible letters. The notice shall be printed in both English and Spanish or other predominant language of the area. The notice shall include the following:

- (1) name, address, and telephone number of the applicant and contact person;
- (2) the anticipated start-up date of the facility or modification, and planned hours of operation;

(3) a description of the facility, including the general process, location, size, quantity, rate, and type of tires to be handled and a description of any proposed modification; and

(4) a statement that written comments regarding the application should be provided to the department and stating the date by which comments must be submitted.

B. Thirty (30) days shall be allowed for the public to submit written comments to the department. Should the secretary determine that there is significant public interest, a public hearing shall be held in the geographic area likely to be impacted by the tire facility.

[20.9.20.19 NMAC - N, 8/2/2007]

20.9.20.20 PERMIT ISSUANCE:

A. The secretary shall issue the permit, issue the permit with terms and conditions, or deny the permit within 60 days after the application is deemed complete or if a public hearing is held, within 120 days following the public hearing.

B. The secretary shall issue a permit if the applicant demonstrates that the requirements of this part and the act are met and that neither a hazard to public health, welfare or the environment nor undue risk to property will result.

C. The terms and conditions of the permit or permit modification shall be the approved representations made by the permit applicant in the application, together with any terms and conditions specifically identified by the secretary.

D. At the time of permit issuance, the tire recycling facility or civil engineering application will be assigned a permit number.

E. A permit issued for a new or existing tire recycling facility shall be for the active life of the facility as described in the approved permit, or for twenty years, whichever is less.

F. A permit issued for a civil engineering application shall terminate upon completion of the civil engineering application or within five years of issuance of the permit, whichever is less.

[20.9.20.20 NMAC - N, 8/2/2007]

20.9.20.21 PERMIT DENIAL, SUSPENSION OR REVOCATION:

A. In addition to the causes for suspension or revocation listed in Subsection B of 74-13-13 NMSA 1978, the secretary may deny, suspend or revoke a permit during its term for:

(1) violation by the owner or operator of any term or condition of the permit, any requirement of the act, these rules or any subsequent rule adopted by the department;

(2) failure of the applicant in the application or during the permit issuance process to disclose fully all relevant facts;

(3) misrepresentation by the owner or operator of any relevant facts at any time;

(4) a determination that the permitted activity endangers public health, welfare or the environment;

(5) failure of the owner or operator to demonstrate the knowledge and ability to operate a facility in accordance with this part;

(6) a history of non-compliance by the owner or operator with environmental regulations, rules or statutes at another facility;

(7) having any permit revoked or permanently suspended for cause under the environmental laws of any state or the United States;

(8) modifying a facility without the approval of the secretary; or

(9) failure to respond to a request for additional information within sixty (60) days of notification.

B. A permit may be revoked in accordance with the procedures set forth in Adjudicatory Procedures - Environment Department, 20.1.5 NMAC. Construction, modification and interim operation, if any, shall cease upon the effective date of the revocation.

C. Once a permit or permit modification is issued and all appeals are final, operations or construction shall begin within one year. If operation or construction does not begin within one year, the secretary may revoke the permit, but in no event shall it be revoked pursuant to this subsection sooner than one year after the effective date of these regulations. [20.9.20.21 NMAC - Rp, 20.9.2.212 NMAC, 8/2/2007]

20.9.20.22 EFFECT OF PERMIT OR REGISTRATION:

A. Any terms or conditions of the permit or registration shall be enforceable to the same extent as a regulation of the board.

B. The existence of a permit or registration issued under this part shall not constitute a defense to a violation of this part or the act.

C. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege. [20.9.20.22 NMAC - N, 8/2/2007]

20.9.20.23 PERMIT MODIFICATION:

A. Any owner or operator of a tire recycling facility, storage facility or civil engineering application who seeks to modify such facility or permit conditions shall obtain a permit modification prior to making any modifications. A permit modification shall not extend the term of any permit.

B. An application for a modification shall demonstrate compliance with the portions of this part that pertain to such a modification.

C. The secretary may initiate the modification of permit conditions or require modification of the facility if:

(1) changes occur after permit issuance, which justify permit conditions that are different from or are not included in the existing permit;

(2) the secretary has received information that was not in the record at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance;

(3) the standards or regulations on which the permit was based have changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued; or

(4) the secretary determines good cause exists for modification, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonable remedy.

[20.9.20.23 NMAC - N, 8/2/2007]

20.9.20.24 TRANSFER OF PERMITS AND CHANGE IN PERMIT APPLICANT:

A. A change in ownership of a permittee requires a permit transfer and shall be allowed according to the following procedure.

(1) Where the entity owning the permit undergoes an ownership change, but the permitted entity remains the same, the new owner shall, within thirty days of the change, submit the following:

- (a)** a description of the change in ownership;
- (b)** the date of the change in ownership;
- (c)** if the change in ownership is for a facility that stores 20,000 or more scrap tires at any one time or processes 200,000 or more scrap tires per year or a land reclamation project that uses 100,000 or more scrap tires per year, a statement that the current financial assurance will remain in effect, or a new proposed financial assurance to meet the requirements of 20.9.20.57 - 20.9.20.59 NMAC has been obtained;
- (d)** a statement whether the new owner has been convicted of a felony or other crime within ten years immediately preceding the date of the transfer, and if so details of the crime and conviction;
- (e)** a statement whether the new owner has been fined within the past five years for alleged violations of any environmental laws of this state, any other state or the United States, and if so, details of any allegations, settlements or compliance orders; and
- (f)** any other information required by the department.

(2) If the change in ownership is for a facility that stores 20,000 or more scrap tires at any one time or processes 200,000 or more scrap tires per year or a land reclamation project that uses 100,000 or more scrap tires per year, the permittee shall provide proof of public notice of the ownership change using the procedures applicable to permit applications in Subsection A of 20.9.20.19 NMAC, and shall indicate in the public notice that the department will accept public comment on the ownership change for a period of 30 days after the date of publication.

(3) The existing financial assurance required by 20.9.20.57 - 20.9.20.59 NMAC shall remain in effect until the secretary has approved any new proposed financial assurance submitted by the new owner.

(4) The secretary shall, within 90 days after the submission of all required information, but not before the close of the public comment period, issue an order approving, approving with terms or conditions, or denying the application for permit transfer and revoking the permit. The secretary may condition the approval or deny the application and revoke the permit based on evidence in the administrative record. The secretary may deny the application for any reason set forth in Subsection A of 20.9.20.21 NMAC.

B. A change in the named permittee requires a permit transfer and shall be allowed according to the following procedure.

(1) Where the person owning the permit seeks to transfer the permit to a new person to be named as permittee, the existing owner and the proposed new owner shall file an application with the department requesting transfer of the permit. The application shall contain the following information:

- (a)** a description of the proposed change of permittee;
- (b)** an explanation of whether the change in permittee will have any effect on the operations;
- (c)** If the change in permittee is for a tire recycling facility that stores 20,000 or more scrap tires at any one time or processes 200,000 or more scrap tires per year or a land reclamation project that uses 100,000 or more scrap tires, a new proposed financial assurance to meet the requirements of 20.9.20.57 - 20.9.20.59 NMAC;

(d) a statement whether the new owner has been convicted of a felony or other crime within ten years immediately preceding the date of the transfer, and if so, details of the crime and conviction;

(e) a statement whether the new owner has been fined within the past five years for alleged violations of any environmental laws of this state, any other state or the united states, and if so, details of any allegations, settlements or compliance orders;

(f) If the change in permittee is for a facility that stores 20,000 or more scrap tires at any one time or processes 200,000 or more scrap tires per year or a land reclamation project that uses 100,000 or more scrap tires; and

(g) any other information required by the secretary.

(2) The permittee shall provide public notice of a proposed permit transfer using the procedures applicable to permit applications in Subsection A of 20.9.20.19 NMAC, and shall indicate in the public notice that the department will accept public comment on the permit transfer for a period of 30 days after the date of publication.

(3) If applicable, the existing financial assurance required by 20.9.20.57 - 20.9.20.59 NMAC shall remain in effect until the secretary has approved any new proposed financial assurance submitted by the proposed new permittee.

(4) The secretary shall, within 90 days after the submission of all required information, but not before the close of the public comment period, issue an order approving, approving with terms or conditions, or denying the application for permit transfer, and if necessary, revoking the permit. The secretary may condition the approval or deny the application and if necessary revoke the permit based on evidence in the administrative record. The secretary may deny the application or if necessary revoke the permit for any reason set forth in 20.9.20.21 NMAC.

C. If a permit applicant changes ownership or seeks to transfer the application to a new proposed permittee, the applicant and transferee shall follow the procedures in this section. If the application has already been deemed complete, the application shall be re-noticed and re-submitted.

[20.9.20.24 NMAC - N, 8/2/2007]

20.9.20.25 PERMIT EXPIRATION:

A. A permit issued for a new or existing tire recycling facility shall expire twenty years after issuance.

B. A permit issued for a civil engineering applications shall expire when the project has been completed and the final report in compliance with 20.9.20.53 NMAC has been submitted and approved in writing.

C. A permit shall automatically expire when the department verifies that the closure and any post-closure care plan, including corrective action, have been completed.

D. If a permitted facility begins operation, and thereafter does not operate for at least one year, authorization to accept scrap tires is suspended and closure activities shall begin immediately.

[20.9.20.25 NMAC -Rp, 20.9.2.II.211 NMAC, 8/2/2007]

20.9.20.26 APPLICATION REQUIREMENTS FOR SCRAP TIRE HAULER

REGISTRATION: Haulers of scrap tires shall register with the department 30 days prior to beginning operations. A scrap tire hauler operating prior to the effective date of these

regulations shall file an application within one year of the effective date of these regulations, and shall be allowed to continue hauling until its application is either approved or denied.

Commercial solid waste haulers registered pursuant to 20.9.3.31 NMAC who haul scrap tires using vehicles that are primarily used for the hauling of other solid waste are not required to register under this section. Registrations are not transferable. Applications for a scrap tire hauler registration shall include the following information;

A. the name, address, telephone number, and e-mail address of the operation for which registration is sought, and the name address, telephone number, date of birth, driver's license number, and social security number of the owner and operator, unless the owner and operator are public entities or are a publicly held corporation that has on file and in effect with the federal securities and exchange commission a registration statement required under 15 U.S.C. Section 77e(c);

B. the anticipated start up date, hours of operation, and days of collection;

C. location and zoning of vehicle maintenance and any storage yard(s) and a demonstration that the use meets all zoning and land use regulations and restrictive covenants;

D. certification that drivers and vehicles are, and will continue to be, properly licensed;

E. a statement whether any of the owners or operators have been fined for violation of any environmental laws of any state or the United States;

F. a statement of whether any of the owners or operators have had any permit or registration revoked or permanently suspended for cause under the environmental laws of any state or the United States;

G. a copy of a current warrant issued by the New Mexico public regulations commission, transportation division pursuant to Paragraph (5) of Subsection A of 18.3.2.8 NMAC, if applicable, or in the case of a public entity hauling special waste, proof of financial responsibility;

H. a list of all registered or permitted tire recycling facilities, beneficial agricultural sites or solid waste facilities where scrap tires are expected to be transported on a regular basis;

I. if the hauler has a temporary storage facility used to separate scrap tires from tires that will be sold for reuse, a separate permit for the hauler's temporary storage facility is not required, but the hauler must provide a statement in the application that no more than 99 scrap tires will be stored at any one time at the haulers temporary storage facility, and that scrap tires will be separated from reusable tires and will not be stored for a period exceeding 72 hours;

J. evidence that a surety bond in the amount of \$10,000 has been posted; and

K. any additional information required by the secretary.

L. All applications shall be signed by the owner and operator, with a statement certifying that all information in the application is true and correct.

[20.9.20.26 NMAC - N, 8/2/2007]

20.9.20.27 SCRAP TIRE HAULER BOND REQUIREMENTS: A scrap tire hauler must acquire and maintain a surety bond in the amount of \$10,000 submitted on a form prepared by the department. This form may be obtained by contacting the department solid waste bureau, and will be posted on its website. The purpose of the surety bond is to provide limited financial assurance for the cleanup and proper disposal of scrap tires found to be illegally dumped by the scrap tire hauler.

A. The surety bond provided to the department must be issued subject to the laws and jurisdiction of the state of New Mexico and must issued by a surety company authorized by the superintendent of insurance to do business in New Mexico. The surety bond provided to the department must have original signatures. The wording of the surety bond must be identical to the wording on the form supplied by the department.

B. The surety bond must name the secretary of the New Mexico Environment Department as the obligee for the surety bond. The secretary may designate a third party to receive any funds from the surety in an amount up to \$10,000 to pay for the costs of clean-up activities.

C. The surety bond must be continuous in nature, unless canceled by the surety company. The security company must notify the department sixty (60) calendar days prior to cancellation of the surety bond. Notice must be provided in writing via certified mail to the solid waste bureau chief.

D. In the event of cancellation of a surety bond, the scrap tire hauler must provide a replacement surety bond, executed by an authorized surety company, within thirty (30) calendar days of the department's receipt of the notice of cancellation of the existing surety bond. Should the scrap tire hauler fail to submit alternate bond coverage by the thirty-first (31) calendar day following receipt by the department of the notice of cancellation, the scrap tire hauler's certificate of registration shall be immediately suspended.

E. The surety company shall become liable under the terms of the bond if the department determines that the scrap tire hauler has failed to comply with the provisions of the Solid Waste Act, the Recycling and Illegal Dumping Act and 20.9.2 NMAC through 20.9.10 NMAC or this part. The registered scrap tire hauler is jointly and severally liable for the bond amount and any penalties, clean-up costs, or judgments resulting from hauling activities in violation of the Solid Waste Act, the Recycling and Illegal Dumping Act and 20.9.2 NMAC through 20.9.10 NMAC or this part that exceed the bond amount.

F. The surety's liability is limited to the amount of the surety bond. The amount of monies recoverable from the scrap tire hauler is not limited to the amount of the bond. A scrap tire hauler shall be responsible for paying for any financial obligations, beyond \$10,000 should the department successfully obtain the \$10,000 from the surety pursuant to the terms of the surety bond, caused by improper disposal of scrap tires by the scrap tire hauler or the scrap tire hauler's employee while acting within the scope of employment, as determined by the department.

G. The owner or operator may cancel the surety if the department has given prior written consent. The department will provide such written consent when the scrap tire hauler has given written notification that the scap tire hauler is no longer in business and/or the date that the scrap tire hauling activities ceased.

[20.9.20.27 NMAC - N, 8/2/2007]

20.9.20.28 SCRAP TIRE HAULER REGISTRATION PROCEDURES:

A. The registration procedures in 20.9.20.26 - 20.9.20.32 NMAC apply to scrap tire haulers.

B. Upon receipt of an application for registration, the department shall review the application to determine if additional information is necessary or shall deem the application complete. The department shall issue a notice of administrative completeness or a notice that

additional information is necessary within 60 days after receipt of the application. The secretary may extend the time for good cause.

C. Within 60 days of receipt of a request for additional information regarding any scrap tire hauler registration application, the owner or operator shall submit the information requested by the department, or the secretary may deny the registration application without prejudice.

[20.9.20.28 NMAC - N, 8/2/2007]

20.9.20.29 SCRAP TIRE HAULER REGISTRATION DENIAL, REVOCATION, OR SUSPENSION:

A. The secretary may deny, revoke, or suspend a scrap tire hauler registration on the basis of information in the application or evidence in the administrative record, or other information that comes to the secretary's attention at any time.

B. Causes for denying, revoking, or suspending a registration include a finding that the applicant or owner or operator has:

- (1) knowingly misrepresented a material fact in the application;
- (2) refused to disclose or failed to disclose the information required under the provisions of this part or the act;
- (3) exhibited a history of willful disregard for the environmental laws of any state or the United States;
- (4) had any permit revoked or permanently suspended for cause under the environmental laws of any state or the United States;
- (5) violated a term or condition of the registration, any requirement of this part, or any requirement of the act or otherwise endangered public health or welfare;
- (6) knowingly misrepresented a material fact at any time after issuance of the registration;
- (7) failed to maintain a valid warrant pursuant to 18.3.2 NMAC; or
- (8) failed to comply with the Parental Responsibility Act, Sections 40-5A-1 et seq. NMSA 1978 (1998 Cum. Supp.).

C. If the department recommends denial of a scrap tire hauler registration, notice shall be provided to the applicant by registered mail. The applicant may request a hearing on the registration denial by filing a written request for hearing with the hearing clerk within 30 days of receipt of the notice. A request for hearing shall be treated as a hearing determination and the hearing conducted pursuant to 20.1.4 NMAC, Permit Procedures - Environment Department. If no request for hearing is filed within 30 days of receipt of the notice, the recommended denial shall become a final action of the secretary.

D. A scrap tire hauler registration may be revoked or suspended in accordance with the procedures set forth in 20.1.5 NMAC, Adjudicatory Procedures - Environment Department. Operation, if any, shall cease upon the effective date of the revocation or suspension.

[20.9.20.29 NMAC - N, 8/2/2007]

20.9.20.30 REGISTRATION ISSUANCE:

A. Within 30 days after an application for a scrap tire hauler registration is deemed complete, the secretary shall issue the registration, issue the registration with terms and conditions, or deny the registration.

B. The secretary shall issue a registration if the owner or operator demonstrates that the requirements of this part and the act are met and that neither a hazard to public health, welfare or the environment nor undue risk to property will result.

C. The terms and conditions of the registration shall be the approved representations made by the registration applicant in the application, together with any terms and conditions specifically identified by the secretary.

D. At the time of registration issuance, the scrap tire hauler will be assigned a registration number.

E. The department shall maintain a list of registered scrap tire haulers on its solid waste bureau website.

[20.9.20.30 NMAC - N, 8/2/2007]

20.9.20.31 SCRAP TIRE HAULER REGISTRATION RENEWAL:

A. A scrap tire hauler shall renew its registration every five years. To renew a registration, the scrap tire hauler shall file a complete renewal application no later than 30 days prior to the expiration date of the registration. A registration renewal application shall include the same information required in 20.9.20.26 NMAC, and in addition provide a complete description of its compliance history and any other information requested by the secretary. The existing registration shall remain in effect until the registration is granted, granted with conditions or denied.

B. A registered scrap tire hauler may continue to operate under the terms and conditions of the existing registration for a period not to exceed one year after the effective date of these rules or until the registration is renewed whichever is first provided that:

(1) the owner and operator are in compliance with the existing registration, this part, and any applicable federal regulations;

(2) a complete renewal application is submitted in a timely fashion in accordance with this section; and

(3) the owner or operator adequately submits any requested additional information by the deadline specified by the secretary.

[20.9.20.31 NMAC - N, 8/2/2007]

20.9.20.32 SCRAP TIRE HAULER REGISTRATION EXPIRATION:

A. A scrap tire hauler registration shall expire five (5) years from the date of issuance of the registration.

B. A scrap tire hauler registration shall terminate upon any change of owners or operators of the registered scrap tire hauler, and the new owner or operator shall obtain a new registration prior to operation.

[20.9.20.32 NMAC - N, 8/2/2007]

20.9.20.33 CURRENT HOLDERS OF TIRE RECYCLING FACILITY REGISTRATIONS, SPECIFIC TIRE RECYCLING FACILITY PERMITS AND LAND RECLAMATION SITES:

Registered tire recycling facilities, land reclamation sites, and holders of specific permits for tire recycling facilities shall apply for a permit and demonstrate compliance with the provisions of this rule within 180 days after its effective date.

[20.9.20.33 NMAC - N, 8/2/2007]

20.9.20.34 CONFIDENTIALITY OF INFORMATION:

A. Permit applicants, owners or operators of tire recycling facilities or civil engineering applications, or scrap tire haulers who submit information to the department may claim such information as confidential. Any claim of confidentiality must be asserted at the time of submittal.

B. To claim confidentiality of information in a submittal, the submitter must clearly mark each page in the document on which the submitter claims there is confidential information, and submit to the department a written description of the basis for the claim of confidentiality at the time of submission. The department shall review the claim of confidentiality based on the written submittal and determine whether the information may be maintained as confidential pursuant to the Inspection of Public Records Act, Section 14-2-1 et seq. NMSA 1978. If the department determines that information in a submittal is confidential, the department may require submission of redacted copies of the submittal for the public record.

C. If no claim of confidentiality is made at the time of submission, any such claims are deemed waived and the department may make the information available to the public without further notice.

D. Information that is determined by the department to be confidential may be disclosed to officers, employees, or authorized representatives of the state or the United States concerned with implementing law enforcement, or when relevant in any proceedings under the act or this part.

[20.9.20.34 NMAC - N, 8/2/2007]

20.9.20.35 FEE SCHEDULE: There are no fees for tire recycling facility permits, storage permits, civil engineering application permits, or scrap tire haulers registrations.

[20.9.20.35 NMAC - N, 8/2/2007]

20.9.20.36 GENERAL SITING CRITERIA FOR TIRE RECYCLING FACILITIES, STORAGE FACILITIES AND CIVIL ENGINEERING APPLICATIONS:

A. No tire recycling or storage facility shall be located within 25 feet of a floodplain, a watercourse (including arroyos), or a wetland unless the floodplain, watercourse, or a wetland has been altered pursuant to an approval from the U.S. army corps of engineers or other appropriate authority.

B. No civil engineering application shall be constructed in a floodplain, a waterway, or a wetland without authorization by the U.S. army corps of engineers or other appropriate authority.

C. No tire recycling facility or civil engineering application shall be located within historically or archaeologically significant sites, unless in compliance with the Cultural Properties Act, Sections 18-6-1 et seq. NMSA 1978 and the Prehistoric and Historic Sites Preservation Act, Sections 18-8-1 et seq. NMSA 1978.

[20.9.20.36 NMAC - N, 8/2/2007]

20.9.20.37 REQUIREMENTS FOR STORAGE OF SCRAP TIRES AND TIRE DERIVED PRODUCT BY TIRE RECYCLING AND STORAGE FACILITIES AND FOR TEMPORARY STORAGE BY CIVIL ENGINEERING APPLICATIONS:

- A.** A scrap tire storage site shall be designed, constructed, and operated so that the health, welfare and safety of operators, haulers, and others who may utilize the site are maintained.
- B.** Outdoor storage of scrap tires shall not be located within the right of way of any electric power lines and in no event within 20 feet on either side of an electric power line.
- C.** Open burning is prohibited at all tire storage sites. Smoking shall be allowed only in designated areas.
- D.** Scrap tire piles or stacks of tire bales shall be no greater than 10 feet in height, nor shall the pile or stack be more than 50 feet wide by 100 feet long.
- E.** There shall be a minimum separation of 40 feet between outdoor scrap tire piles, bale stacks, and other stored materials. This 40 foot space shall be designated as a fire lane that totally encircles the tire piles and shall be maintained as an all-weather road.
- F.** Outdoor storage piles and bale stacks must be separated from grass and weeds by a minimum of 40 feet and from brush and forested areas including pinon and juniper by a minimum of 100 feet.
- G.** When there are more than three (3) outdoor storage piles of scrap tires or scrap tire bales that are 10 feet high by 50 feet wide by 100 feet long, the separation between the groups shall be at least 75 feet wide.
- H.** Tires shall not be stored under bridges, elevated trestles, elevated roadways, or elevated railroads.
- I.** When the bulk volume of scrap tires will be more than 20,000 cubic feet, a firmly anchored fence that is at least six feet high or other method of security that has been approved by the local fire authority is required.
- J.** All gates to the outdoor storage piles of scrap tires shall be locked when the facility is not staffed.
- K.** All gateways, fire breaks and separation lanes shall be free of obstructions at all times.
- L.** The scrap tire storage site shall have fire extinguishers that are in compliance with the local fire code.
- M.** Each site permitted as a tire recycling or storage facility shall conspicuously display at each entrance a sign at least 1 1/2 feet by 2 1/2 feet in size with clear, legible letters stating the name of the scrap tire storage site using the, name, location, and physical address of the site, the tire recycling or storage facility permit number, the hours of operation and emergency telephone numbers.
- N.** The facility must have suitable structures or features to prevent surface water run-on from surrounding areas as well as preventing surface runoff from leaving the facility.
- O.** The scrap tire storage site shall be designed, constructed and maintained in accordance with all local building codes, fire codes, and other applicable local codes and regulations including litter and nuisance codes.
- P.** An adequate means of suppression or extinguishing fires shall be provided.
[20.9.20.37 NMAC - N, 8/2/2007]

20.9.20.38 GENERAL OPERATING AND CONSTRUCTION REQUIREMENTS:
Owners and operators of all tire recycling facilities and civil engineering application sites shall operate and construct the tire recycling facility or civil engineering application in a manner that:

- A. does not cause a public nuisance or create a potential hazard to public health, welfare or the environment;
 - B. is in compliance with rules adopted by state and local fire authorities; and
 - C. operates and maintains the facility in accordance with 20.9.20.37 NMAC.
- [20.9.20.38 NMAC - N, 8/2/2007]

20.9.20.39 ADDITIONAL OPERATING REQUIREMENTS FOR ALL PERMITTED TIRE RECYCLING FACILITIES:

- A. Owners and operators of all tire recycling facilities shall:
 - (1) ensure that copies of the emergency contingency plan that meets the requirements of 20.9.20.47 NMAC; are readily accessible to employees on duty;
 - (2) train employees when hired and at least annually thereafter on when and how to implement the emergency contingency plan that meets the requirements of 20.9.20.47 NMAC and document in the operating record that such training has been conducted;
 - (3) maintain a written operating record and manifests in compliance with 20.9.20.48 - 20.9.20.50 NMAC; and
 - (4) notify the department both orally and in writing within 24 hours of an incident that may negatively impact the environment, or human health or requires implementation of the facility's emergency contingency plan.
 - B. The secretary may order temporary changes in operation or facility design in emergency situations when the secretary determines there is an imminent danger to public health, welfare or the environment.
- [20.9.20.39 NMAC - N, 8/2/2007]

20.9.20.40 ADDITIONAL OPERATING REQUIREMENTS FOR PERMITTED FACILITIES THAT STORE MORE THAN 20,000 SCRAP TIRES AT ANY ONE TIME OR PROCESSES MORE THAN 200,000 SCRAP TIRES PER YEAR: Owners and operators of facilities that store 20,000 or more scrap tires at any one time or processes 200,000 or more than scrap tires per year shall:

- A. post signs at the facility to indicate the name and address of the site, the hours of operation, the tire recycling facility permit number and emergency telephone numbers; and
 - B. prominently post key operational procedures.
- [20.9.20.40 NMAC - N, 8/2/2007]

20.9.20.41 CIVIL ENGINEERING APPLICATION CONSTRUCTION AND MAINTENANCE REQUIREMENTS:

- A. Scrap tires kept in temporary storage before and during construction of a civil engineering application will be stored in compliance with 20.9.20.37 NMAC.
- B. Copies of the emergency contingency plan that meets the requirements of 20.9.20.47 NMAC shall be readily accessible to employees on duty.
- C. All civil engineering applications shall be constructed in a stable manner.
- D. The secretary may order temporary changes in storage, construction or design in emergency situations when the secretary determines there is an imminent danger to public health, welfare or the environment.
- E. After completion, all civil engineering applications should be inspected on a regular basis by the site owner or operator to observe any weakness or failure of the structure.

F. In the event of a crack, break or collapse of the civil engineering application, the failure will be repaired in a timely manner so that scrap tires do not enter contiguously owned property or become a health hazard.

G. Loose tires used for civil engineering applications shall be filled with soil or other fill material to prevent the tires from becoming harborage for vectors.

H. The owner or operator of a civil engineering application shall maintain a written operating record and retain manifests in compliance with 20.9.20.48 - 20.9.20.50 NMAC.

I. Upon completion of the civil engineering application, all excess scrap tires held in temporary storage and equipment used for construction shall be removed, and a final report shall be submitted to the department pursuant to 20.9.20.53 NMAC.

[20.9.20.41 NMAC - N, 8/2/2007]

20.9.20.42 ADDITIONAL CONSTRUCTION AND MAINTENANCE REQUIREMENTS FOR A CIVIL ENGINEERING APPLICATION THAT USES 100,000 OR MORE SCRAP TIRES OR IS MORE THAN TWO BALES HIGH:

If the civil engineering application constructed is different from the plans submitted in the application, a professional engineer registered in New Mexico shall provide stamped and sealed as-built certification of the civil engineering application actually constructed.

[20.9.20.42 NMAC - N, 8/2/2007]

20.9.20.43 OPERATING REQUIREMENTS FOR CIVIL ENGINEERING APPLICATIONS USING SCRAP TIRES FOR LAND RECLAMATION:

A. Undisturbed land shall not be excavated for the purpose of filling the same land with a mixture of scrap tires and debris or soil. Any borrow area, hole or other disturbed land area to be used for a land reclamation project must have existed before the project, and it must have been excavated or soil removed for a purpose other than for the burial of tires or tire pieces.

B. Any person holding a permit for a civil engineering application using scrap tires for land reclamation shall:

(1) not adversely affect human health, public safety or the environment, either during fill operations or after the reclamation project is completed;

(2) not create a public nuisance;

(3) place scrap tires below ground mixed in a proportion no greater than 33% scrap tires by volume with soil suitable as fill material and compact and grade the structure in a manner that will prevent erosion;

(4) maintain a written operating record and retain manifests in compliance with 20.9.20.48 - 20.9.20.50 NMAC during the filling process; and

(5) not store scrap tires on the ground surface without burial and mixing with inert material for a period longer than one week.

[20.9.20.43 NMAC - N, 8/2/2007]

20.9.20.44 ADDITIONAL OPERATING REQUIREMENTS FOR CIVIL ENGINEERING APPLICATIONS THAT USE 10,000 OR MORE SCRAP TIRES PER YEAR FOR LAND RECLAMATION: No more than 10 acres of land shall be reclaimed using scrap tires at any one location.

[20.9.20.44 NMAC - N, 8/2/2007]

20.9.20.45 OPERATING REQUIREMENTS FOR SCRAP TIRE HAULERS AND TRANSPORTERS:

- A.** Any person who transports scrap tires, whether or not for hire, shall:
 - (1)** collect and transport tires so as to prevent environmental, safety, and public health or welfare hazards and nuisances; and
 - (2)** securely tie, strap or use a fully enclosed container to transport scrap tires to prevent loss of contents during transportation.
- B.** Additional operating requirements for persons that haul scrap tires for hire follows.
 - (1)** All registered scrap tire haulers shall conspicuously label all vehicles on both sides with the company's name, telephone number and registration number.
 - (2)** Pursuant to 20.9.20.50 NMAC, registered scrap tire haulers shall provide a scrap tire manifest to the scrap tire generator for each load of scrap tires hauled.
 - (3)** Registered scrap tire haulers shall comply with all manifesting requirements in 20.9.20.50 NMAC and record keeping requirements in 20.9.20.48 NMAC and 20.9.20.49 NMAC.
 - (4)** Scrap tire haulers shall provide prior notification to the department in writing of any major changes in operation. A major change includes a change in ownership, a change in location of vehicle maintenance and storage yard and a change in the disposal facility being used. In the case of emergency, where prior notice cannot be given, written notice shall be given within 48 hours after the change.
 - (5)** A scrap tire hauler is responsible for assuring that scrap tires are transported to a permitted or registered facility or beneficial agricultural operation within 30 days after leaving the site of the generator.
 - (6)** A hauler's temporary storage facility shall contain no more than 99 scrap tires at any one time.
 - (7)** Scrap tires shall be stored for no more than 72 hours at a hauler's temporary storage facility.

[20.9.20.45 NMAC - N, 8/2/2007]

20.9.20.46 SCRAP TIRE GENERATOR OPERATING REQUIREMENTS:

- A.** Each scrap tire generator is responsible for assuring that scrap tires are transported to a permitted or registered facility or beneficial agricultural operation.
- B.** Each scrap tire generator shall use manifests to document the removal and management of all scrap tires generated on-site.
- C.** Each scrap tire generator shall monitor and control vectors in outdoor tire storage areas.
- D.** Each scrap tire generator may transport its scrap tires from its own business locations to a permitted or registered facility or bona fide beneficial agricultural operation without a scrap tire hauler registration and shall provide the manifest to the final destination for completion. The scrap tire generator shall retain the manifest pursuant to 20.9.20.50 NMAC.
- E.** Each scrap tire generator shall comply with all manifesting requirements in 20.9.20.50 NMAC.

[20.9.20.46 NMAC - N, 8/2/2007]

20.9.20.47 CONTINGENCY PLAN FOR EMERGENCIES:

A. Holders of tire recycling facility permits shall maintain a current emergency contingency plan designed to minimize hazards to public health, welfare or the environment.

B. A copy of the emergency contingency plan shall be kept at the permitted facility and copies shall be provided to the appropriate emergency response authorities of the local government.

C. The provisions of the emergency contingency plan shall be carried out immediately whenever there is a fire, explosion, or release of contaminants which could pose an immediate or imminent threat to public health, welfare or the environment.

D. The emergency contingency plan shall be amended immediately whenever the following occurs.

(1) The facility permit is modified.

(2) The plan fails in an emergency.

(3) The facility's design, operations, maintenance, or other circumstances change in a way that increases the potential for fires, explosions, or releases of hazardous constituents, or necessitate changes to the planned emergency response.

(4) The list of emergency coordinators changes.

(5) The list of emergency equipment changes.

E. The emergency contingency plan for emergencies shall include the following, if applicable.

(1) A description of the actions facility personnel should take in response to fires or other disaster.

(2) A description of arrangements with local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services.

(3) A list of the name(s) and telephone numbers of the emergency coordinator(s). If more than one person is listed, one must be named as the primary emergency coordinator.

(4) A list of all emergency equipment at the facility (such as fire extinguishing systems, communications and alarm systems), along with the location, physical description, and a summary of the capabilities of each item.

(5) An evacuation plan for facility personnel which describes signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes in cases where the primary routes could be blocked by fire or releases of toxins.

(6) Instructions for the emergency coordinator or his designee, in case of an imminent or actual emergency situation, to immediately:

(a) activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(b) notify appropriate state and local agencies with designated response roles if their assistance is needed.

(7) Instructions for the emergency coordinator, whenever there is a fire or other disaster, to as quickly as possible identify the nature, source, amount, and extent of any accident of fire by means of observation, review of facility records or manifests, or if necessary, by chemical analysis.

(8) Instructions for the emergency coordinator to assess possible hazards to public health, welfare or the environment that may result from the fire or explosion.

(9) Instructions for the emergency coordinator to provide for appropriate treatment, storage, or disposal of recovered waste, or any other material that results from a release, fire, or explosion at a facility, after the emergency situation is under control.

[20.9.20.47 NMAC - N, 8/2/2007]

20.9.20.48 RECORD KEEPING:

A. All persons holding a tire recycling facility permit shall maintain manifests and any records necessary to comply with its annual report requirements which shall include:

- (1) the type of processing;
- (2) the number of scrap tires or weight of the scrap tires received from each scrap tire generator or scrap tire hauler;
- (3) the name, mailing address, contact name, telephone number and e-mail address if available, of each transporter that delivered scrap tires to the facility;
- (4) the name, mailing address, contact name, telephone number and e-mail address if available, of the scrap tire generator where the scrap tires originated;
- (5) the number of unprocessed scrap tire remaining at the site at the end of the calendar year;
- (6) the number of processed scrap tire remaining at the site at the end of the calendar year; and
- (7) the number of tire bales, if applicable, remaining at the site at the end of the calendar year.

B. Any person holding a civil engineering application permit shall maintain a record during the construction of the project that includes manifests and any records necessary to comply with applicable record keeping requirements and the final project report requirements which shall include:

- (1) the number of scrap tires or weight of the scrap tires received from each scrap tire generator or scrap tire hauler;
- (2) the name, mailing address, contact name, telephone number and e-mail address if available, of each transporter that delivered scrap tires to the civil engineering application; and
- (3) the name, mailing address, contact name, telephone number and e-mail address if available, where the scrap tires originated.

C. Any person holding a scrap tire hauler registration shall maintain manifests and any records necessary to comply with its annual report requirements which shall include:

- (1) the number of scrap tires or weight of the scrap tires for each month, by origin and destination;
- (2) the name, mailing address, and e-mail address if available, of each scrap tire generator or scrap tire hauler; and
- (3) the name, mailing address, and e-mail address if available, of each authorized facility where scrap tires are delivered.

D. Any person holding a scrap tire hauler registration shall retain all manifests showing the collection and disposition of all used or scrap tires.

E. All records, plans, manifests and information required by this part shall be furnished upon request and be made available at reasonable times for inspection by the department.

F. All records, plans, manifests and annual reports required by this part shall be retained by the facility during the operational life of the facility and for a period of three (3) years after closure of the facility.

G. Any person holding a tire recycling facility permit or a civil engineering application permit shall retain at the permitted site a copy of the terms and conditions of the permit or registration, the emergency contingency plan if applicable, and permit or registration certificate.

H. Any person holding a scrap tire hauler registration shall keep a copy of the certificate of registration and any terms and conditions in any vehicle used to transport the scrap tires.

[20.9.20.48 NMAC - Rp, 20 NMAC 9.2.III.301, 8/2/2007]

20.9.20.49 ANNUAL REPORTS AND FINAL REPORTS: Any person having a tire recycling facility permit, civil engineering application permit or scrap tire hauler registration shall submit an annual report to the secretary within 60 days after the end of each calendar year describing the operations of the past year.

A. For tire recycling facilities, the report shall include the following information:

- (1) the type of processing;
- (2) the number of scrap tires or weight of the scrap tires received annually from each scrap tire generator or scrap tire hauler;
- (3) the name, mailing address, contact name, telephone number and e-mail address if available, of each transporter that delivered scrap tires to the facility;
- (4) the name, mailing address, contact name, telephone number and e-mail address if available, where the scrap tires originated;
- (5) the number of unprocessed scrap tire remaining at the site at the end of the calendar year;
- (6) the number of processed scrap tire remaining at the site at the end of the calendar year; and
- (7) the number of tire bales, if applicable, remaining at the site at the end of the calendar year.

B. For scrap tire haulers, the report shall include the following information:

- (1) the number of scrap tires or weight of the scrap tires for each month, by origin and destination;
- (2) the name, mailing address, contact name, telephone number and e-mail address if available, of each scrap tire generator or scrap tire hauler; and
- (3) the name, mailing address, contact name, telephone number and e-mail address if available, of each authorized facility where scrap tires are delivered.

C. For civil engineering projects taking more than one year, the report shall include the following information:

- (1) the number of scrap tires or weight of the scrap tires received from each scrap tire generator or scrap tire hauler;
- (2) the name, mailing address, contact name, telephone number and e-mail address if available, of each scrap tire generator or scrap tire hauler;
- (3) the name, mailing address, contact name, telephone number and e-mail address if available, where the scrap tires originated; and

(4) the status of the civil engineering application to include the number of scrap tires or weight of scrap tires that have not been used for the project yet, the number that is still needed, and the portion of the project that has already been completed.

D. For civil engineering projects taking less than one year, the report shall be submitted to the department 30 days after completion and shall include:

(1) as built drawings including cross section and plan view, if different from the proposed design; if the civil engineering application used 100,000 scrap tires or more or is more than two scrap tire bales high, the as built shall be signed and sealed by a professional engineer registered in New Mexico;

(2) the total number of scrap tires or tire bales used for the civil engineering application;

(3) the length, width and height of the civil engineering application; and

(4) photographs of the civil engineering application.

[20.9.20.49 NMAC - Rp, 20 NMAC 9.2.III.301, 8/2/2007]

20.9.20.50 SCRAP TIRE MANIFEST SYSTEM:

A. Each shipment of ten or more scrap tires generated, or recycled or disposed in New Mexico, and transported by a scrap tire generator or hauler shall be accompanied by a scrap tire manifest that complies with this section, in a format approved by the department. The department will place a copy of the approved format on the solid waste bureau website, and will also make it available at the department. The manifest form shall be provided by the transporter or if transportation is performed by the generator, then the generator shall supply the manifest. The manifest form shall include:

(1) the name, physical address, mailing address and telephone number of the generator;

(2) the name, address, and telephone number of all haulers in the order each will be transporting the scrap tires; if the scrap tires are being transported for hire, the scrap tire or commercial hauler's registration number shall be included;

(3) if the hauler removes scrap tires from the shipment for reuse, the number and type of tires removed, the name, phone number and physical address, of the used tire reseller or individual to whom the scrap tires were delivered;

(4) the name, telephone number and permit or registration number of the facility to which the scrap tires are to be delivered;

(5) the number and type of scrap tires released by the scrap tire generator;

(6) the number and type of scrap tires delivered to the final destination;

(7) sequential numbering; and

(8) a minimum of 4 copies; copy 4 will be retained by the scrap tire generator upon completion of tire loading; copy 3 will be retained by the scrap tire transporter upon delivery of tires to a permitted processing facility; copy 2 will be retained by the processing facility; copy 1, or the original copy, shall be returned to the generator by the processing facility in accordance with the requirements of this section.

B. The generator or his authorized agent shall sign and date the manifest and obtain the signature of the initial hauler and date of acceptance on the manifest. The generator shall retain a copy of the manifest. Each hauler shall obtain the signature and date of the individual who accepts the scrap tires for recycling, further transportation or disposal, retain a copy of the

manifest, and provide the original manifest to the next hauler or facility operator who receives the scrap tires.

C. Once the scrap tires reach a permitted tire recycling facility, a permitted civil engineering application site, a bona fide beneficial agricultural use, or a solid waste facility having a valid permit or registration, that destination shall be considered the final destination and must return the signed and dated manifest to the generator. If the scrap tires are transported from the permitted or registered facility or site, the facility or site shall be considered a generator of scrap tires, and a new manifest must be initiated.

D. If a registered scrap tire or registered commercial hauler removes tires for reuse or resale while transporting from a generator site to a permitted tire recycling facility, a permitted civil engineering application site, a bona fide beneficial agricultural use, or a solid waste facility having a valid permit or registration, he shall retain copies and invoices for the sale of any tires removed from the original shipment for a period of three (3) years, showing the name, address, and if available, the phone number of the customer.

E. If a registered scrap tire or registered commercial hauler removes for reuse all tires from an individually manifested shipment, the hauler shall return the original manifest to the generator within 60 days of the date of collection. If all are not removed, the manifest shall be adjusted to show the number of tires removed. The manifest shall follow the scrap tires to the next hauler or final destination.

F. The manifest shall accurately reflect the required information and shall be signed and dated by the generator, each hauler of the scrap tires, and by the final destination, acknowledging delivery, number or weight, and receipt of the scrap tires. All signatories shall be duly authorized agents of their organizations. The generator shall keep a copy of the originating manifest for three years.

G. The final destination of the scrap tires shall be a permitted tire recycling facility, a permitted civil engineering application site, a bona fide beneficial agricultural use, or a solid waste facility having a valid permit or registration issued pursuant to the Solid Waste Act 74-9-1, et seq. NMSA 1978.

H. A scrap tire hauler shall release the scrap tires and provide the accompanying scrap tire manifest(s) to the final destination within 30 days after the release of scrap tires from the scrap tire generator.

I. The generator shall contact the department if the original manifest is not received within 60 days of the date of release of the scrap tires.

J. Upon discovery of any significant discrepancy including, but not limited to, factual misrepresentation on the manifest, irregularities in transportation or any unauthorized action in regard to the shipment, delivery, or disposal of the scrap tires, the person discovering the discrepancy shall notify the department, the generator, the hauler, and the final destination in writing within 24 hours. A discrepancy of over 20% between the number of tires released by the generator site, if measured by number, and scrap tires accepted at the final destination, if measured by weight, and unless otherwise accounted for, shall be considered significant.

K. Within thirty days of receipt of a scrap tire shipment at the final destination, the owner or operator of the final destination shall send the original signed copy of the manifest to the scrap tire generator, acknowledging receipt of the shipment. The facility owner or operator shall list any significant discrepancies on the manifest. Other methods of return of the manifest may be allowed upon specific approval from the secretary.

L. A copy of the manifest shall be retained by each hauler and final destination for their operating records. The scrap tire generator shall retain for a period of three years both the originating copy and the returned original manifest signed by the solid waste facility owner or operator and all haulers transporting the waste. Haulers shall retain a copy of the manifest for a period of three years.

M. Copies of the manifest shall be retained by the final destination throughout any closure period.

N. This section shall not apply to scrap tires that are collected incidentally to the collection and transportation of municipal solid waste to a permitted or registered facility.

O. The transportation of scrap tires between a permitted or registered solid waste facility and another permitted or registered solid waste facility or permitted civil engineering application shall be exempt from this section.

P. Transportation of scrap tires by the New Mexico department of transportation and its contractors is exempt from this section.

Q. Registered commercial waste haulers that are hired to transport scrap tires from an illegal dump site or an abatement project are exempt from this section.

[20.9.20.50 NMAC - N, 8/2/2007]

20.9.20.51 CLOSURE REQUIREMENTS FOR TIRE RECYCLING FACILITIES AND CIVIL ENGINEERING APPLICATIONS: Closure plans are required in the application for a permit or permit modification, pursuant to 20.9.20.11 NMAC.

[20.9.20.51 NMAC - N, 8/2/2007]

20.9.20.52 CLOSURE REQUIREMENTS FOR TIRE RECYCLING FACILITIES:

A. The owner or operator of the tire recycling facility shall prepare a written closure plan that describes the steps necessary for closure of the tire recycling facility and any anticipated future uses of the property following closure.

B. The owner or operator of the tire recycling facility shall notify the department in writing of the intent to close at least 30 days before the last day tires are to be accepted at the facility and shall notify the department in writing within 14 days after the closure is complete.

C. Within 30 days after site closure is complete, the owner or operator shall notify the department certifying that all requirements have been met.

D. If the facility was required to provide proof of financial assurance for closure, the department shall inspect the site within 30 days of closure. If the closure is found to be satisfactory, the department shall approve the closure in writing and release the financial assurance instruments.

E. Owners or operators of tire recycling facilities shall:

(1) remove all processed and unprocessed tires;

(2) dismantle and remove any improvements related to scrap tire handling and processing, if required in the approved closure plan; and

(3) comply with all other conditions of the approved closure plan of the permit.

[20.9.20.52 NMAC - N, 8/2/2007]

20.9.20.53 COMPLETION REQUIREMENTS FOR CIVIL ENGINEERING APPLICATIONS: Upon completion of a civil engineering application, the owner or operator shall:

- A. remove all scrap tires not used for the civil engineering application;
 - B. submit a completion report to the department within 60 days after completion. The report shall include photographs documenting that the project has been completed and that all scrap tires not used in the project have been removed; and
 - C. provide the department with a final report of the completed civil engineering application including as built drawings in accordance with Subsection D of 20.9.20.49 NMAC. If the civil engineering application used 100,000 scrap tires or more or is more than two scrap tire bales high, the as built shall be signed and sealed by a professional engineer registered in New Mexico.
- [20.9.20.53 NMAC - N, 8/2/2007]

20.9.20.54 ADDITIONAL CLOSURE AND COMPLETION REQUIREMENTS FOR CIVIL ENGINEERING APPLICATIONS THAT USE SCRAP TIRES FOR LAND RECLAMATION:

- A. For completion of a civil engineering application that uses scrap tires for land reclamation, the owner or operator shall cover the site with 30 inches of compacted native soils and 6 inches of top soil to provide a 36-inch final cover that meets original grade and implement measures where necessary to control erosion and rodent intrusion.
- B. Upon completion of closure, a detailed description of the location of the land reclamation site, including a plat signed by a registered surveyor, shall be filed with the appropriate county land recording agent. The description and the plat shall be filed so that it will be found during a title search and proof of the filing shall be submitted to the department. The description shall perpetually notify any potential purchaser of the property that:
 - (1) scrap tires have been used to reclaim the land; and
 - (2) if applicable, its use is restricted as described in the post-closure care plan.
- C. The owner or operator shall prepare a written closure and post-closure care plan that describes the steps necessary for closure and post-closure care of the project and any anticipated future uses of the property following closure. The written plan shall include the following:
 - (1) a vegetation plan, if appropriate; and
 - (2) a monitoring and repair plan that describes methods to be used to ensure cover integrity, including but not limited to settlement, ponding, water erosion, wind erosion, and inadequate drainage.

[20.9.20.54 NMAC - N, 8/2/2007]

20.9.20.55 ENFORCEMENT of this part shall be done in compliance with the Recycling and Illegal Dumping Act, Sections 74-13-13 through 74-13-16 NMSA 1978 and the Solid Waste Act, Section 74-9-31 and Section 74-9-34 and Sections 74-9-36 through 74-9-38 NMSA 1978.

[20.9.20.55 NMAC - N, 8/2/2007]

20.9.20.56 RECYCLING AND ILLEGAL DUMPING FUND CRITERIA AND PROCEDURES FOR AWARDED GRANTS AND LOANS:

- A. Counties, municipalities, cooperative associations, Indian nations, pueblos, tribes, or land grant communities may apply to the department for a grant, or loan for the purposes stated in the Recycling and Illegal Dumping Act, Sections 74-13-12 and 74-13-17 NMSA 1978.

B. Counties, municipalities, cooperative associations, Indian nations, pueblos, tribes, or land grant communities seeking a contract for abatement of illegal dumpsites or the recycling of scrap tires shall submit an application on a form developed by the department. All dumpsite abatement contract applications will be prioritized for award using the following criteria:

- (1) number of scrap tires and estimated amount and type of other on-site solid waste;
- (2) population within a five-mile radius of the illegal dumpsite or stockpile;
- (3) schools, hospitals, businesses and industries within a five-mile radius of the illegal dumpsite or stockpile;
- (4) the distance to rivers, streams and arroyos;
- (5) the fire hazard posed; and
- (6) whether the illegal dumpsite or stockpile is still active, and if so, what action, if any, is being taken by the governing body of the county, municipality, cooperative association, Indian nation, pueblo or tribe, or land grant community to terminate the activity.

C. Counties, municipalities, cooperative associations, Indian nations, pueblos, tribes, or land grant communities seeking a grant or loan for the recycling of scrap tires, abatement of illegal scrap tire dumpsites, or other purposes described in Section 74-13-17 NMSA 1978 shall submit an application on a form developed by the department. All such grants or loans will be prioritized for award using the criteria in Subsection B above, or for the recycling of scrap tires or other purposes described in Section 74-13-17 NMSA 1978, using the following criteria:

- (1) need;
- (2) urgency;
- (3) amount of local funding available;
- (4) consistency with surrounding land use;
- (5) population served;
- (6) consistency with department priorities;
- (7) alternative solutions available; and
- (8) in no event shall a grant, loan or contract for processing be awarded to a person who receives less than ninety-five percent of recyclable materials from sources in New Mexico.

D. The department shall allocate budgeted grant money consistent with the requirements of Section 74-13-17 NMSA 1978.

E. In accordance with Subsection C of Section 74-13-7 NMSA 1978, the recycling and illegal dumping alliance shall review and make recommendations to the department for establishing priorities for each funding and application cycle and for funding grant applications for grants from the recycling and illegal dumping fund.

F. The department shall establish funding and application cycles.

G. Once applications have been submitted, the department shall:

- (1) review all applications for eligibility, completeness, and adequacy of technical and financial information;
- (2) use a point system to evaluate each application; and
- (3) make recommendations to the secretary for awarding grants and loans based on fund availability and points.

H. Grants or loans are contingent on the execution of an acceptable contract between the department and the entity awarded the grant or loan. Each contract shall, at a minimum:

- (1) clearly state the proposed use of funds;

(2) establish a work plan and schedule;
(3) create a budget; and
(4) for abatement projects, state the mechanisms to be used by local authorities to prevent future illegal dumping at the site to be abated.
[20.9.20.56 NMAC - N, 8/2/2007]

20.9.20.57 FINANCIAL ASSURANCE APPLICABILITY AND EFFECTIVE DATE:

A. The requirements of 20.9.20.57 - 20.9.20.59 NMAC apply to owners and operators of all tire recycling facilities and civil engineering applications that use scrap tires for land reclamation required to provide financial assurance pursuant to Subsection B of 20.9.20.12 NMAC and Subsection C of 20.9.20.17 NMAC, except owners and operators who are the United States, the state of New Mexico, or any agency, department, instrumentality, office, or institution of those governments whose debts and liabilities are the debts and liabilities of the United States or the state of New Mexico.

B. The owner or operator of a tire recycling facility modified after the effective date of these regulations shall have an approved financial assurance mechanism in place prior to implementing the modification.

C. For tire recycling facilities operating on or after September 1, 1995, the requirements of 20.9.20.57 - 20.9.20.59 NMAC apply beginning 180 days following the effective date of these regulations.

[20.9.20.57 NMAC - N, 8/2/2007]

20.9.20.58 FINANCIAL ASSURANCE FOR CLOSURES:

A. The owner or operator of a tire recycling facility or civil engineering application that uses scrap tires for land reclamation that is required to provide financial assurance pursuant to Subsection B of 20.9.20.12 NMAC and Subsection C of 20.9.20.17 NMAC shall develop a detailed written estimate, in current dollars, of the cost of hiring a third party to close the facility. The owner or operator shall file a copy of the estimate with the department concurrently with any request for approval of a financial assurance mechanism, and shall place a copy of the estimate in the operating record, and notify the department that the estimate has been placed in the operating record.

B. During the active life of the facility, the owner or operator shall annually adjust the cost estimate for inflation and any other factors affecting closure costs. A copy of the adjusted closure cost estimate shall be filed with the department, and a copy shall be placed in the operating record.

C. The owner or operator shall increase the amount of financial assurance if changes to the closure or facility conditions increase the maximum cost of closure or abatement at any time during the remaining active life by over 3 percent of the current financial assurance amount.

D. The owner or operator may reduce the amount of financial assurance for closure if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the facility, upon specific approval by the secretary. To seek approval, the owner or operator shall provide the adjusted cost estimate and supporting documentation to the department. If approved, the owner or operator may revise any financial assurance documents to reflect the adjusted closure cost estimate, and shall file a duplicate original of each financial assurance document with the department within 15 days following approval, and shall place a copy of the estimate and approval in the operating record.

E. Cost estimates for all facilities shall include department contract management costs of at least 10 percent of the estimated closure costs.

F. The owner or operator shall provide continuous coverage for closure until released from financial assurance requirements by a written verification issued by the secretary pursuant to Subsection D of 20.9.20.52 NMAC.
[20.9.20.58 NMAC - N, 8/2/2007]

20.9.20.59 ALLOWABLE MECHANISMS FOR FINANCIAL ASSURANCE: The owner or operator of a tire recycling facility or civil engineering applications that use scrap tires for land reclamation that are required to post financial assurance shall select a financial assurance mechanism from those allowable mechanisms for closure identified in 20.9.10.13 NMAC.
[20.9.20.59 NMAC - N, 8/2/2007]

20.9.20.60 VARIANCES: Any person seeking a variance from any requirement of this part shall do so in accordance with Permit Procedures - Environment Department, 20.1.4 NMAC.
[20.9.20.60 NMAC - N, 8/2/2007]

20.9.20.61 RECYCLING AND ILLEGAL DUMPING ALLIANCE: The recycling and illegal dumping alliance shall complete the requirements of Subsection C of 74-13-7 NMSA 1978.
[20.9.20.61 NMAC - N, 8/2/2007]

20.9.20.62 EXEMPTIONS: Any person claiming to be exempt from the act because the scrap tires will be used in an beneficial agricultural use shall demonstrate that the scrap tires will be used on land that has qualified as "Special Method of Valuation - Land Used Primarily For Agricultural Purposes", pursuant to 3.6.5.27 NMAC. Upon request, verification that the property upon which the tire recycling facility or civil engineering application is located has been granted an agricultural exemption by the assessor of the county where the tire recycling facility or civil engineering application is located shall be submitted to the secretary. In addition, any person claiming to be exempt from the act must show, upon request, that the scrap tires are being put to a beneficial agricultural use.
[20.9.20.62 NMAC - N, 8/2/2007]

20.9.20.63 REUSABLE TIRES: Reusable tires shall be kept for resale for a period not to exceed one year. After that time, they are considered scrap tires subject to the Recycling and Illegal Dumping Act, Sections 74-13-1 et seq. NMSA 1978 and the Solid Waste Act, Sections 74-9-1 et seq. NMSA 1978.
[20.9.20.63 NMAC - N, 8/2/2007]

20.9.20.64 COMPLIANCE WITH OTHER REGULATIONS: Compliance with this part does not relieve a person of the obligation to comply with other applicable local, state and federal laws.
[20.9.20.64 NMAC - Rp, 20 NMAC 9.2.109, 8/2/2007]

HISTORY OF 20.9.20 NMAC:
Pre NMAC History: none.

History of Repealed Material: 20 NMAC 9.2, Tire Recycling (filed 07/18/1995) repealed 8/2/2007.

NMAC History: 20 NMAC 9.2, Tire Recycling (filed 07/18/1995) was renumbered, reformatted and replaced by 20.9.20 NMAC, Recycling, Illegal Dumping and Scrap Tire Management, effective 8/2/2007.