

HOUSE GOVERNMENT, ELECTIONS AND INDIAN AFFAIRS
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 291

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING THE RECYCLING AND ILLEGAL DUMPING ACT TO PROMOTE THE STATE'S CIRCULAR ECONOMY; REQUIRING THE ENVIRONMENTAL IMPROVEMENT BOARD TO ADOPT REQUIREMENTS AND PROCEDURES FOR A PERSON TO SUBMIT RULES TO THE BOARD FOR ADOPTION; REQUIRING THE BOARD TO DETERMINE WHETHER TO HOLD A HEARING WITHIN SIXTY DAYS.

.231085.1AIC March 3, 2025 (5:35pm)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 74-13-1 NMSA 1978 (being Laws 2005, Chapter 171, Section 1) is amended to read:

"74-13-1. SHORT TITLE.--~~[Sections 1 through 20 of this act]~~ Chapter 74, Article 13 NMSA 1978 may be cited as the "Recycling, Circular Economy and Illegal Dumping Act"."

SECTION 2. Section 74-13-2 NMSA 1978 (being Laws 2005, Chapter 171, Section 2) is amended to read:

"74-13-2. LEGISLATIVE PURPOSES.--The purposes of the Recycling, Circular Economy and Illegal Dumping Act are to:

A. protect the health and welfare of current and future residents of New Mexico by providing for the prevention and abatement of illegal dumpsites;

B. promote environmentally sound methods for reuse and recycling and to foster a circular economy;

C. create a statewide recycling and circular economy alliance involving the cooperation of cities, counties, state agencies, tribal governments, land grant communities and private business to encourage economic development, community development and collaboration that foster sustainable use of resources and increased recycling and that promote a circular economy and a cleaner and healthier environment; and

D. enhance and coordinate existing highway litter control and removal and recycling efforts that include the recycling of tires, glass, plastic, metal, paper products,

electronic waste and construction and demolition materials."

SECTION 3. Section 74-13-3 NMSA 1978 (being Laws 2005, Chapter 171, Section 3) is amended to read:

"74-13-3. DEFINITIONS.--As used in the Recycling, Circular Economy and Illegal Dumping Act:

A. "abatement" means to reduce in amount, degree or intensity or to eliminate;

B. "agricultural use" means the beneficial use of scrap tires in conjunction with the operations of a farm or ranch that includes construction projects and aids in the storage of feed;

C. "alliance" means the recycling, circular economy and illegal dumping alliance;

D. "board" means the environmental improvement board;

E. "circular economy" means an economy that uses a systems-focused approach and involves industrial processes and economic activities that:

(1) are restorative or regenerative by design;

(2) enable resources used in such processes and activities to maintain their highest values for as long as possible; and

(3) aim for the elimination of waste through the superior design of materials, products and systems, including business models;

.231085.1AIC March 3, 2025 (5:35pm)

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

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

~~[F.]~~ 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;

~~[G.]~~ H. "cooperative association" means a refuse disposal district created pursuant to the Refuse Disposal Act, a sanitation district created pursuant to the Water and Sanitation District Act, a special district created pursuant to the Special District Procedures Act or other associations created pursuant to the Joint Powers Agreements Act or the Solid Waste Authority Act;

~~[H.]~~ I. "department" means the department of environment;

~~[I.]~~ J. "dispose" means to deposit scrap tires or solid waste into or on any land or water;

~~[J.]~~ K. "household" means any single and multiple residence, hotel or motel, bunkhouse, ranger station, crew quarters, campground, picnic ground or day-use recreation area;

~~[K.]~~ L. "illegal dumping" means disposal of trash, scrap tires or any solid waste in a manner that violates the

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

Solid Waste Act or the Recycling, Circular Economy and Illegal Dumping Act;

[~~L.~~] M. "illegal dumpsite" means a place where illegal dumping has occurred except as stated in Subsection A of Section [~~4 of the Recycling and Illegal Dumping Act~~] 74-13-4 NMSA 1978;

[~~M.~~] N. "market development" means activities to expand or create markets for recyclable and reusable materials that foster a circular economy;

[~~N.~~] O. "motor vehicle" means a vehicle or device that is propelled by an internal combustion engine or electric motor power that is used or may be used on the public highways for the purpose of transporting persons or property and includes any connected trailer or semitrailer;

[~~O.~~] P. "processing" means techniques to change physical, chemical or biological character or composition of solid waste but does not include composting, transformation or open burning;

[~~P.~~] Q. "recycling" means any process by which recyclable materials are collected, separated or processed and reused or returned to use in the form of raw materials or products;

[~~Q.~~] R. "reuse" means the return of a commodity into the economic stream without a change to its original form;

.231085.1AIC March 3, 2025 (5:35pm)

[R.] S. "scrap tire" means a tire that is no longer suitable for its originally intended purpose because of wear, damage or defect;

[S.] T. "scrap tire baling" means the process by which scrap tires are mechanically compressed and bound into block form;

[T.] U. "scrap tire generator" means a person who generates scrap tires, including retail tire dealers, retreaders, scrap tire processors, automobile dealers, automobile salvage yards, private company vehicle maintenance shops, garages, service stations and city, county and state government, but does not include persons who generate scrap tires in a household or in agricultural operations;

[U.] V. "scrap tire hauler" means a person who transports scrap tires for hire for the purpose of recycling, disposal, transformation or use in a civil engineering application;

[V.] W. "secretary" means the secretary of environment;

[W.] X. "tire" means a continuous solid or pneumatic rubber covering that encircles the wheel of a motor vehicle;

[X.] Y. "tire-derived fuel" means whole or chipped tires that produce a low sulfur, high-heating-value fuel;

[Y.] Z. "tire-derived product" means a usable

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

product produced from the processing of a scrap tire but does not include baled tires;

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

~~[AA-]~~ BB. "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

.231085.1AIC March 3, 2025 (5:35pm)

Act; or

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

SECTION 4. Section 74-13-6 NMSA 1978 (being Laws 2005, Chapter 171, Section 6) is amended to read:

"74-13-6. ADMINISTRATION OF ACT--RECYCLING AND WASTE REDUCTION COORDINATOR--CIRCULAR ECONOMY COORDINATOR.--

A. The department is responsible for the administration and enforcement of the provisions of the Recycling, Circular Economy and Illegal Dumping Act and of all rules adopted by the board pursuant to the provisions of that act. The department is delegated all authority necessary and appropriate to carry out its responsibilities.

B. The positions of "recycling and waste reduction coordinator" and "circular economy coordinator" are created in the department and shall be funded from the recycling and illegal dumping fund."

SECTION 5. Section 74-13-7 NMSA 1978 (being Laws 2005, Chapter 171, Section 7) is amended to read:

"74-13-7. RECYCLING, CIRCULAR ECONOMY AND ILLEGAL DUMPING ALLIANCE.--

A. The "recycling, circular economy and illegal dumping alliance" is created and is [~~comprised~~] composed of one member from each of the following:

- (1) state government;

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

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

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

C. The alliance shall:

(1) develop strategies to increase recycling, foster the circular economy and decrease illegal dumping in New Mexico;

(2) create a state [~~recycling~~] circular economy plan, as a component of the New Mexico solid waste management plan, to establish programs and goals and update the [~~plan~~] plans every three years to measure progress and modify strategies; and

(3) review and make recommendations for funding grant applications from the recycling and illegal

.231085.1AIC March 3, 2025 (5:35pm)

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight
delete = → bold, red, highlight, strikethrough

dumping fund."

SECTION 6. Section 74-13-8 NMSA 1978 (being Laws 2005, Chapter 171, Section 8) is amended to read:

"74-13-8. RULES--AUTHORITY AND CONTENT.--The board shall adopt rules to implement the provisions of the Recycling, Circular Economy and Illegal Dumping Act. The rules shall be adopted pursuant to the provisions of the Environmental Improvement Act and shall include:

A. requirements and procedures for the issuance of permits and registrations to tire recycling facilities, civil engineering applications, scrap tire generators and scrap tire haulers;

B. standards and requirements for tire recycling and scrap tire storage and processing;

C. record-keeping requirements for tire recycling facilities, scrap tire haulers and scrap tire generators;

D. financial assurance criteria for tire recycling facilities;

E. fire rules for storage of scrap tires and tire-derived products that are consistent with the rules or recommendations adopted by the state fire marshal;

F. criteria and procedures for making disbursements pursuant to grant and loan programs authorized from the recycling and illegal dumping fund;

G. requirements and procedures for contracting with

underscoring material = new
[bracketed material] = delete
Amendments: new = bold, blue, highlight
delete = bold, red, highlight, strikethrough

counties, municipalities, Indian nations, pueblos and tribes, land grant communities and cooperative associations for the abatement of illegal dumpsites and recycling;

H. requirements and procedures for a scrap tire manifest system;

I. a fee schedule applicable to scrap tire haulers and tire recycling facilities not exceeding the estimated cost of investigating and issuing permits and registrations and conducting regulatory oversight of permitted and registered activities; [~~and~~]

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

K. requirements and procedures for a person to submit proposed rules to the board for adoption. The board shall determine whether to hold a hearing within sixty days of submission of a proposed rule."

SECTION 7. Section 74-13-10 NMSA 1978 (being Laws 2005, Chapter 171, Section 10) is amended to read:

"74-13-10. SOLID WASTE PERMIT EXEMPTION.--A person operating a tire recycling facility under a permit issued pursuant to the Recycling, Circular Economy and Illegal Dumping Act shall not be required to obtain a permit for that facility pursuant to the Solid Waste Act."

SECTION 8. Section 74-13-11 NMSA 1978 (being Laws 2005,

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

Chapter 171, Section 11) is amended to read:

"74-13-11. ABATEMENT OF ILLEGAL DUMPSITE.--

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

B. The secretary may act administratively to eliminate illegal dumpsites pursuant to the provisions of the Recycling, Circular Economy and Illegal Dumping Act.

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

SECTION 9. Section 74-13-13 NMSA 1978 (being Laws 2005, Chapter 171, Section 13) is amended to read:

"74-13-13. ENFORCEMENT--COMPLIANCE ORDERS.--

A. Whenever the secretary determines that a person has violated or is violating any requirement or prohibition of the Recycling, Circular Economy and Illegal Dumping Act, a rule adopted pursuant to that act or a condition of a permit issued pursuant to that act, the secretary may:

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

.231085.1AIC March 3, 2025 (5:35pm)

underscoring material = new
[bracketed material] = delete
Amendments: new = bold, blue, highlight
delete = bold, red, highlight, strikethrough

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

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

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

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

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

F. Upon request of a party, the secretary may issue

.231085.1AIC March 3, 2025 (5:35pm)

subpoenas for the attendance and testimony of witnesses at the hearing and for the production of relevant documents. The secretary shall adopt procedural rules for the conduct of the hearing, including provisions for discovery.

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

SECTION 10. Section 74-13-14 NMSA 1978 (being Laws 2005, Chapter 171, Section 14) is amended to read:

"74-13-14. ENFORCEMENT--FIELD CITATIONS.--

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

B. A field citation issued pursuant to this section shall be final unless the person named in the citation files a written request for a public hearing with the secretary no later than fifteen days after the date on which the field citation is served on the person, in which case the enforcement

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

of the field citation shall be suspended pending the issuance of a final order of the secretary after a public hearing. The procedures for scheduling and conducting a hearing on and for final disposition of a field citation shall be the same as those provided for a compliance order pursuant to the Recycling, Circular Economy and Illegal Dumping Act.

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

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

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

SECTION 11. Section 74-13-15 NMSA 1978 (being Laws 2005,

.231085.1AIC March 3, 2025 (5:35pm)

Chapter 171, Section 15) is amended to read:

"74-13-15. JUDICIAL REVIEW OF ADMINISTRATIVE ACTIONS.--A person adversely affected by an administrative action taken by the secretary pursuant to the provisions of the Recycling, Circular Economy and Illegal Dumping Act may appeal the action pursuant to Section 39-3-1.1 NMSA 1978."

SECTION 12. Section 74-13-16 NMSA 1978 (being Laws 2005, Chapter 171, Section 16) is amended to read:

"74-13-16. PENALTY--CRIMINAL.--

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

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

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

B. A person who knowingly omits any substantive information or knowingly makes a false substantive statement or representation required pursuant to the Recycling, Circular Economy and Illegal Dumping Act or rule adopted pursuant to the

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

provisions of that act is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978."

SECTION 13. Section 74-13-17 NMSA 1978 (being Laws 2005, Chapter 171, Section 17) is amended to read:

"74-13-17. GRANTS--ELIGIBILITY--APPLICATIONS.--

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

~~Hf11→[The first priority for funding shall be abatement of illegal scrap tire dumpsites and the recycling of scrap~~

~~tires.~~←Hf11 Hf11→The first priority for funding shall be abatement of illegal scrap tire dumpsites and the recycling of scrap tires.←Hf11

Hf11→[←Hf11 B. A grant, loan or contract for

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

~~processing shall not be awarded pursuant to the Recycling and Illegal Dumping Act to a person who receives less than ninety-five percent of recyclable materials from sources in New Mexico.~~

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

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

SECTION 14. Section 74-13-19 NMSA 1978 (being Laws 2005, Chapter 171, Section 19) is amended to read:

"74-13-19. RECYCLING AND ILLEGAL DUMPING FUND CREATED.--

The "recycling and illegal dumping fund" is created in the state treasury. Fees and penalties collected pursuant to the Recycling, Circular Economy and Illegal Dumping Act shall be deposited into the fund. Money in the fund is appropriated to the department for ~~[abatement of illegal dumpsites; for processing, transportation or recycling of all recyclable materials and scrap tires; for providing funds to public landfills in New Mexico to offset the cost of collecting or recycling of tires; and for]~~ carrying out the provisions of the

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

Recycling, Circular Economy and Illegal Dumping Act. Any unexpended or unencumbered balance or income earned from the money in the recycling and illegal dumping fund remaining at the end of a fiscal year shall not revert to the general fund. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or the secretary's designee."

- 19 -

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

.231085.1AIC March 3, 2025 (5:35pm)