

This rule was filed as 17 NMAC 16.2.

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 16 RECYCLING**  
**PART 2 RUBBERIZED ASPHALT PROGRAM**

**17.16.2.1 ISSUING AGENCY:** New Mexico State Highway and Transportation Department, P.O. Box 1149, Santa Fe, NM 87504-1149, (505) 827-5191  
[3-15-97; Recompiled 12/31/01]

**17.16.2.2 SCOPE:** Municipalities and counties in the State of New Mexico.  
[3-15-96; Recompiled 12/31/01]

**17.16.2.3 STATUTORY AUTHORITY:** In 1994, the New Mexico State Legislature enacted the "Tire Recycling Act", NMSA 1978, Sections 74-11-1 to 17, (Repl. Pamph. 1993, & Cum. Supp. 1996), which provides for the recycling and disposal of scrap tires and the creation of the rubberized asphalt fund. This fund will pay for any additional expenses incurred by New Mexico municipalities and counties, when asphalt paving mixes utilizing scrap tires are used for road construction projects.  
[3-15-97; Recompiled 12/31/01]

**17.16.2.4 DURATION:** Permanent.  
[3-15-97; Recompiled 12/31/01]

**17.16.2.5 EFFECTIVE DATE:** March 15, 1997, unless a later date is cited at the end of a section or paragraph.  
[3-15-97; Recompiled 12/31/01]

**17.16.2.6 OBJECTIVE:** The limited demand for used tires has caused a storage disposal problem common to many states. With the move toward a healthy environment, the visually offensive storage sites have attracted attention and concern from the public, national and state legislators. These sites also create safety, health, and fire hazards, and continue to grow much faster than the demand for their potential use.

**A.** The Environmental Protection Agency estimates that the present size of the scrap tire problem is 2 to 3 billion discarded tires that have accumulated in stockpiles and uncontrolled tire dumps found in deserts, forests, grasslands, and empty lots throughout the United States. According to the New Mexico Tire Advisory Committee, New Mexico has over 1 million discarded scrap tires currently stockpiled or discarded in public and private properties throughout the state. This committee also estimates that an additional 1.2 to 1.5 million scrap tires either are discarded or recycled each year in New Mexico.

**B.** This rule defines administration of the Rubberized Asphalt Program by the New Mexico State Highway and Transportation Department and will establish procedures for disbursement of funds for municipalities and counties in the use of rubberized asphalt in paving mixtures.  
[3-15-97; Recompiled 12/31/01]

**17.16.2.7 DEFINITIONS**

**A.** Rubberized asphalt means any method that blends crumb rubber modifier with the asphalt cement incorporating the resulting binder in the asphalt paving mixture.

**B.** Crumb rubber is obtained by reprocessing (grinding) scrap motor vehicle tires.

**C.** Scrap tire means a tire that is no longer suitable for its originally intended purpose, which is to absorb shock and provide traction on a motor vehicle; or is not usable as a casing in a retread tire because of wear, damage or defect.

**D.** Department means the New Mexico State Highway and Transportation Department.  
[3-15-97; Recompiled 12/31/01]

**17.16.2.8 PROJECT REQUIREMENTS**

**A.** Scrap ground rubber from recycled tires must be used in the asphalt paving mix.

**B.** The rubberized asphalt paving mix must be in compliance with the Department specifications or as otherwise approved by the State Materials Lab Bureau.

**C.** The Department requires that at least 95% of all scrap tires used in these projects originate in the State of New Mexico, or that an equivalent weight (14 pounds of rubber for each 20 pound tire) of unprocessed scrap tires originating in New Mexico is shipped to another state.

**D.** The municipality or county shall specify where and when the tires will be shipped. Written verification that an equivalent weight of unprocessed scrap tires has been removed from the State will be required before reimbursement will be authorized.

**E.** Allow a representative of the Department to inspect the project to see that it is consistent with the terms, conditions, and specifications of the agreement or contract.

**F.** Each construction project will be reviewed as it is submitted to determine the total costs this fund will cover.

**G.** The Department will ensure that funds in the agreed-upon amount are spent in accordance with all applicable state and federal laws and regulations.

[3-15-97; Recompiled 12/31/01]

**17.16.2.9 REQUESTS FOR FUNDS:** The Materials Lab of the Department will review all requests for funds and provide any technical assistance requested. The following information should be submitted:

**A.** A written request showing location, tons of hot mix, and the area of the project that will use rubberized asphalt. Projects can be new construction or reconstruction.

**B.** Provide a copy of the road construction plans and specifications as soon as they are available prior to advertisement of the project.

[3-15-97; Recompiled 12/31/01]

**17.16.2.10 FUNDS DISBURSEMENT PROCESS**

**A.** Once the project is complete, submit invoices to: New Mexico State Highway And Transportation Dept., State Materials Bureau-Rubberized Asphalt Program, P.O. Box 1149, Santa Fe, NM 87504-1149

**B.** The municipality or county must certify that the amount requested is true and correct and shall have the public entity official sign off verifying the amount.

**C.** After the Department approves the reimbursement, a check will be forwarded to the municipality or county.

[3-15-97; Recompiled 12/31/01]

**History of 17.16.2 NMAC:** [RESERVED]

Cross-References: Tire Recycling, See 20 NMAC 9.2 [now 20.9.2 NMAC]