

## NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Department of Agriculture (NMDA), proposes to repeal and replace 21.17.50 NMAC, PEST, DISEASE AND WEED CONTROL.

### PURPOSE AND SUMMARY OF THE PROPOSED RULES:

Primary proposed amendments to the current Pesticide rule language removes unwarranted definitions; amends licensing and registration expiration dates to ease the re-registration efforts during the winter holiday season; and updates outdated fee schedules that support pesticide related services and statute mandated licensing and pesticide registration activities.

The current Pesticide rule does not comply with current style and formatting requirements and is therefore required to follow the repeal and replacement process rather than the amendment process. Subsection C of 1.24.11.9 NMAC states "When an agency amends a part that was not filed in the current style and format, it shall reformat the entire part (or use the reformatting done by the records center) and officially adopt the current style and formatting requirements in conjunction with the amendment." Style and formatting changes to the Pesticide rule in its entirety are included in the proposed amendments.

Principal proposed rule amendments remove three unwarranted definitions (Subsections C, E and Y of 21.17.50.7 NMAC); revises expiration dates for pesticide registration and pesticide applicator licenses from December 31 to January 31 (Subsections A et. seq. of 21.17.50.9 NMAC); updates 15-year old annual licensing fees for pesticide dealers, pest management consultants, commercial applicators, non-commercial applicators, pesticide operators and private applicators (Subsection B through G of 21.17.50.25 NMAC); and updates the 2010 pesticide registration, and examination fees (Subsection A and I of 21.17.50.25 NMAC).

**STATUTORY AUTHORITY:** Granted to the Board of Regents of New Mexico State University under the New Mexico Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation.

Copies of the Notice of Proposed Rulemaking and proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (<https://www.nmda.nmsu.edu>) and at agency district and field offices.

**Tuesday, July 29 2025** at 11:00 am NMDA will host a public video/telephonic and in-person hearing at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM, 88003.

Join via Video for Tuesday, July 29, 2025, 11:00 am hearing:

Meeting URL: <https://nmsu.zoom.us/j/83992662632>

Meeting ID: 777 178 7960

Passcode: 328151

Or

Join via Phone for Tuesday, July 29, 2025, 11:00 am hearing:

+1 669 900 6833 or +1 719 359 4580

Meeting ID: 777 178 7960

Passcode: 328151

**Thursday, July 31 2025** at 11:00 am NMDA will host a public in-person hearing at the CNM workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM, 87113.

Oral comments will be accepted at the hearing from members of the public and any interested parties.

Written comments will be accepted until 5:00pm on July 31, 2025. Comments may be submitted via email to [comments@nmda.nmsu.edu](mailto:comments@nmda.nmsu.edu) or may be filed by sending original copies to:

New Mexico Department of Agriculture, Office of Director

MSC 3189, PO Box 30005, 1050 Stewart Street, Las Cruces, NM 88003-8005

Only signed statements, proposals or comments will be accepted. Scanned or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, NMDA reserves the right to require that original signatures be provided to verify the electronic or facsimile signature.

**SPECIAL NEEDS:** If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact NMDA at (575) 646-3702 at least one week prior to the meeting or as soon as possible.

The Director will consider all oral comments and will review all timely submitted written comments and responses.



## AVISO DE PROPUESTA DE NORMATIVA

**POR EL PRESENTE SE COMUNICA** que el Departamento de Agricultura de Nuevo México (NMDA) propone derogar y reemplazar la norma 21.17.50 NMAC, CONTROL DE PLAGAS, ENFERMEDADES Y MALEZAS.

### PROPÓSITO Y RESUMEN DE LAS NORMATIVAS PROPUESTAS:

Las principales enmiendas propuestas a la norma actual sobre pesticidas eliminan definiciones innecesarias; modifican las fechas de vencimiento de las licencias y registros para facilitar la renovación de registros durante la temporada navideña; y actualizan las tarifas obsoletas que financian los servicios relacionados con pesticidas y las actividades de licencias y registro de pesticidas exigidas por la ley.

La norma actual sobre pesticidas no cumple con los requisitos de estilo y formato actuales y, por lo tanto, debe seguir el proceso de derogación y reemplazo en lugar del proceso de enmienda. La subsección C del 1.24.11.9 NMAC establece: "Cuando una agencia modifique una parte que no se presentó según el estilo y formato vigentes, deberá reformatear la parte completa (o utilizar el reformateo realizado por el centro de registros) y adoptar oficialmente los requisitos de estilo y formato vigentes junto con la enmienda." Los cambios de estilo y formato a la norma de pesticidas en su totalidad se incluyen en las enmiendas propuestas.

Las principales enmiendas propuestas a la norma eliminan tres definiciones injustificadas (subsecciones C, E e Y del 21.17.50.7 NMAC); revisan las fechas de vencimiento del registro de pesticidas y las licencias de aplicación de pesticidas del 31 de diciembre al 31 de enero (subsecciones A y siguientes del 21.17.50.9 NMAC); Se actualizan las tarifas anuales de licencia vigentes durante 15 años para distribuidores de pesticidas, consultores de manejo de plagas, aplicadores comerciales, aplicadores no comerciales, operadores de pesticidas y aplicadores privados (Subsecciones B a G del 21.17.50.25 NMAC); y se actualizan las tarifas de registro y examen de pesticidas de 2010 (Subsecciones A e I del 21.17.50.25 NMAC).

**AUTORIDAD ESTATUTARIA:** Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México en virtud de la Ley de Control de Pesticidas de Nuevo México, Capítulo 76, Artículo 4, Secciones 1 a 39, Compilación de la NMSA de 1978.

Se pueden descargar copias del Aviso de Propuesta de Normativa y de las normas propuestas (incluida cualquier información técnica) del sitio web del Departamento de Agricultura de Nuevo México (<https://nmdeptag.nmsu.edu/>) y de las oficinas de distrito y de campo de la agencia.

**El martes 29 de julio de 2025** a las 11:00 a.m., el NMDA celebrará una audiencia pública, tanto por videoconferencia como por teléfono, y en persona, en el Auditorio Gerald Thomas Hall (Sala 194) de la Universidad Estatal de Nuevo México, ubicado en College Drive 940, Las Cruces, NM 88003.

Para unirse por videoconferencia a la audiencia del martes 29 de julio de 2025 a las 11:00 a.m.:

URL de la reunión: <https://nmsu.zoom.us/j/83992662632>

ID de la reunión: 777 178 7960

Código de acceso: 328151

O

Para unirse por teléfono a la audiencia del martes 29 de julio de 2025 a las 11:00 a.m.:

+1 669 900 6833 o +1 719 359 4580

ID de la reunión: 777 178 7960

Código de acceso: 328151

**El jueves 31 de julio de 2025** a las 11:00 a.m., el NMDA celebrará una audiencia pública presencial en el Centro de Capacitación Laboral de CNM, ubicado en 5600 Eagle Rock Ave, NE Albuquerque, NM 87113.

Se aceptarán comentarios orales del público y de cualquier parte interesada. Se aceptarán comentarios escritos hasta las 5:00 p.m. del 31 de julio de 2025. Los comentarios pueden enviarse por correo electrónico a [comments@nmda.nmsu.edu](mailto:comments@nmda.nmsu.edu) o enviar copias originales a:

New Mexico Department of Agriculture, Office of Director  
MSC 3189, P.O. Box 30005, 1050 Stewart Street, Las Cruces, NM 88003-8005

Solo se aceptarán declaraciones, propuestas o comentarios firmados. Se aceptarán firmas escaneadas o electrónicas que cumplan con los requisitos de los tribunales federales y estatales, en el entendido de que, en caso de disputa con respecto a una firma, el NMDA se reserva el derecho de exigir la presentación de firmas originales para verificar la firma electrónica o facsímil.

**NECESIDADES ESPECIALES:** Si usted es una persona con discapacidad que necesita un lector, amplificador, intérprete de lenguaje de señas cualificado o cualquier otro tipo de ayuda o servicio auxiliar para asistir o participar en la audiencia o reunión, comuníquese con el NMDA al (575) 646-3702 al menos una semana antes de la reunión o lo antes posible.

El Director considerará todos los comentarios orales y revisará todos los comentarios y respuestas escritos presentados oportunamente.





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**TITLE 21        AGRICULTURE AND RANCHING**  
**CHAPTER 17    PEST, DISEASE, AND WEED CONTROL**  
**PART 50        PESTICIDES**

**21.17.50.1        ISSUING AGENCY:** New Mexico State University, New Mexico Department of Agriculture.  
 MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007.  
 [21.17.50.1 NMAC – Rp, 21.17.50.1 NMAC, 10/07/2025]

**21.17.50.2        SCOPE:** Part 50 shall apply to all persons regulated under the Pesticide Control Act, including private applicators, commercial applicators, non-commercial applicators, public applicators, pest management consultants, pesticide dealers and pesticide manufacturers, and to all activities relating to the distribution and use of pesticides.  
 [21.17.50.2 NMAC – Rp, 21.17.50.2 NMAC, 10/07/2025]

**21.17.50.3        STATUTORY AUTHORITY:** Granted to the board of regents of New Mexico state university under the New Mexico Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation.  
 [21.17.50.3 NMAC – Rp, 21.17.50.3 NMAC, 10/07/2025]

**21.17.50.4        DURATION:** Permanent.  
 [21.17.50.4 NMAC – Rp, 21.17.50.4 NMAC, 10/07/2025]

**21.17.50.5        EFFECTIVE DATE:** October 07, 2025, unless a later date is cited in the history note at the end of a section.  
 [21.17.50.5 NMAC – Rp, 21.17.50.5 NMAC, 10/07/2025]

**21.17.50.6        OBJECTIVE:** The objective of Part 50 of Chapter 17 is to set criteria for the use of pesticides in New Mexico, including the licensing and certification of pesticide applicators, record keeping, equipment inspection, fees, storage and disposal of pesticides.  
 [21.17.50.6 NMAC – Rp, 21.17.50.6 NMAC, 10/07/2025]

**21.17.50.7        DEFINITIONS:**

**A.        "Active ingredient"** means any ingredient which will prevent, destroy, repel, control or mitigate a pest or which will act as a regulator, defoliant or desiccant.

**B.        "Aircraft"** means any fixed-wing aerial equipment or helicopter used to apply pesticides.

**C.        "Bait"** means an edible material containing a pesticide attractive to a pest.

**D.        "Certified applicator"** means any person who has complied with the certification requirements established by the department to use or supervise the use of any pesticide covered by a valid license issued by the department.

**E.        "Competent"** means properly qualified to perform functions associated with pesticide application and/or use, the degree of capability required being directly related to the nature of the activity and the associated responsibility.

**F.        "Defoliant"** means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

**G.        "Desiccant"** means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

**H.        "Direct supervision"** means verifiable instruction to a competent person as follows:

- (1) detailed guidance for applying and/or using the pesticide properly; and
- (2) provisions for contacting the certified applicator in the event he is needed; or
- (3) actual physical presence of a certified applicator when required by the label.

**I.        "Disposal"** means to abandon, deposit, inter, or otherwise discard of waste as a final action after its use has been achieved or a use is no longer intended.

**J.        "Fungus"** means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts) as, for example, rust, smut, mildew, mold and yeast, except those on or in processed food, beverages, or pharmaceuticals.

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- K. **"Ground equipment"** means any equipment used to supply pesticides that is operated on the ground and is self-propelled, or is mounted, drawn, or transported by a tractor, truck or other vehicle, and that is:
- (1) gravity fed;
  - (2) mechanically driven by chain, gears or belts; or
  - (3) obtains power or pressure from a power-take-off or engine.
- L. **"Hazardous pesticide waste"** means any pesticide waste in a concentration or quantity, or a waste pesticide container which the board declares to be hazardous to the public health and safety, domestic livestock or wildlife or property.
- M. **"Illegal residue"** means the amount of pesticide remaining in or on food or feed crops and crop by-products, or in meat, meat by-products, or in the fat or milk of animals in excess of tolerances established by the U.S. environmental protection agency (EPA).
- N. **"Inert ingredient"** means any ingredient which has no active properties.
- O. **"Manual equipment"** means any pressurized or electrically operated equipment (excluding hand-sized pressurized containers containing pesticides) used to apply pesticides that is carried or drawn as a complete unit by the person who applies the pesticide.
- P. **"Open burning"** means the combustion of pesticide waste in any fashion other than by incineration in an incinerator approved and permitted by the New Mexico environment department and designed for that waste.
- Q. **"Open dumping"** means the placing of pesticide waste in a land site other than a sanitary landfill as defined herein.
- R. **"Operator technician"** means any person who uses any pesticide as an employee of a commercial applicator.
- S. **"Permit"** means a written certificate of authority issued by the department to use or apply pesticides.
- T. **"Pest"** means any living organism injurious to other living organisms (except man and viruses, bacteria, or other microorganisms in or on other living organisms other than plants) that is a vector of a disease, or is a parasite on another organism and includes, but is not limited to, organisms in the phyla, Platyhelminthes (flatworms, flukes, tapeworms), Nematelminthes (roundworms), Mollusca (snails), Annelida (earthworms), Arthropoda (centipedes, millipedes, spiders, mites, ticks, insects) and Chordata (fish, amphibians, reptiles, birds, mammals, excluding man).
- U. **"Pest control operator"** means a commercial applicator certified in one or more of the license classification(s) 7A, 7B, 7C, or 7D of Paragraphs (10) through (13) of Subsection B of 21.17.50.8 NMAC.
- V. **"Pesticide waste"** means any active or inert ingredient, or any combination thereof, of a labeled pesticide in either its packaged concentration or diluted for use which is intended for disposal. The term "pesticide waste" does not include any pesticide packaged in a form suitable for use in the household, or for agricultural use by a farmer or rancher.
- W. **"Protective equipment"** means clothing, respirators, goggles or other equipment or materials used to shield an applicator against unintended exposure to pesticides.
- X. **"Public pest management consultant"** means any individual who is employed by a governmental agency or municipality and who offers or supplies technical advice or makes recommendations to a user of restricted-use pesticides.
- Y. **"Sanitary landfill"** means a land site for the disposal of wastes as specified under the environmental improvement board's solid waste management regulations in such a manner so as to preclude hazards to public health and safety, domestic livestock or wildlife, and loss of property by utilizing the principles of engineering to confine the wastes to the smallest practical area and to cover with soil.
- Z. **"Service container"** means any container utilized to hold, store or transport a pesticide concentrate or a pesticide use-dilution preparation other than 1) the original labeled container provided by the manufacturer or 2) the application equipment. Containers used for waste pesticides are not deemed to be service containers.
- AA. **"Service vehicle"** means any vehicle used to transport pesticide application equipment, or use-dilution preparation to the application site.
- BB. **"Use-dilution preparation"** means a pesticide preparation which is mixed with a diluent and at a rate specified on the label or labeling which produces the concentration of the pesticide provided on the registered label or labeling.
- CC. **"Waste pesticide container"** means any container intended for disposal which formerly held pesticides.

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**DD. "Water dumping"** means the disposal of pesticide waste in or on lakes, ponds, rivers, sewers, arroyos or any watercourse, except properly designed and constructed manmade facilities approved by the New Mexico environmental improvement division.

**EE. "Weed"** means any plant which grows where not wanted.  
[21.17.50.7 NMAC – Rp, 21.17.50.7 NMAC, 10/07/2025]

**21.17.50.8 LICENSE CATEGORIES:**

**A.** This section delineates the license categories and the scope of operations which may be performed under each category. These license categories represent the certification examinations taken by commercial, public and non-commercial applicators, pest management consultants and public pest management consultants.

**B.** License category and code number:

- (1) 1A -- Agricultural pest control -- includes the control of insects, mites, plant, diseases, nematodes, and the use of soil fumigants, on agronomic crops.
- (2) 1B -- Agricultural weed control -- includes the control of undesirable plants that compete with agricultural crops for water and plant nutrients and includes the use of desiccants, fumigants and defoliant.
- (3) 1C -- Animal pest control -- includes spraying, dusting, dipping, or administering pesticides internally to control pests such as lice, mites, bots, fleas and flies on pets and livestock or treatment of places where animals are confined.
- (4) 2 -- Forest pest control -- includes the application of pesticides in forests, forest nurseries and forest seed producing areas.
- (5) 3A -- Ornamental and turf pest control: insecticides and fungicides -- includes the control of insect and disease pests in the maintenance and production of ornamental trees, shrubs, flowers and turf.
- (6) 3B -- Ornamental and turf pest control: herbicides -- includes the control of undesirable vegetation in the maintenance and production of ornamental trees, shrubs, flowers and turf.
- (7) 4 -- Seed treatment -- includes the treatment of seeds to control insects, plant diseases and other pests.
- (8) 5 -- Aquatic pest control -- includes the application of a pesticide to standing or running water to control algae, undesirable fish and other aquatic organisms, excluding public health pest control.
- (9) 6 -- Right-of-way pest control -- includes the control of vegetation along public roads, electric powerlines, pipelines, railway rights-of-way, around oil well, storage areas, airports and similar areas.
- (10) 7A -- Structural pest control -- includes the control of household pests, fabric pests and stored product pest.
- (11) 7B -- Vertebrate animal control -- includes the control of rodents, birds, bats and predators of wildlife and domestic animals.
- (12) 7C -- Fumigation -- includes the use of gases such as methyl bromide, hydrogen cyanide and phosphine to control pests in structures, railroad cars, stored grain and similar areas.
- (13) 7D -- Wood destroying pest control -- includes the control of termites, carpenter ants, wood-boring or tunneling beetles, fungi and other organisms which attack lumber in structures or sawed lumber.
- (14) 8 -- Public health pest control -- includes the control of mosquitoes, flies, fleas and other vectors that transmit human or animal diseases.
- (15) 9 -- Regulatory pest control -- includes state, federal or other governmental employees who control regulated and/or quarantined pests.
- (16) 10 -- Demonstration and research pest control -- includes:
  - (a) individuals who demonstrate to the public the proper use of restricted-use pesticides; or
  - (b) who conduct field research with pesticides.
- (17) 11 -- Other -- to be assigned by the director.

[21.17.50.8 NMAC – Rp, 21.17.50.8 NMAC, 10/07/2025]

**21.17.50.9 EXPIRATION DATE OF LICENSES:** The annual registration of pesticides and any licenses or certifications provided for in the Pesticide Control Act shall expire on the dates indicated in this section unless it has been revoked or suspended prior thereto by the director.

- A.** The annual pesticide or device registration shall expire on January 31 following issuance.
- B.** The annual pesticide dealer license shall expire on January 31 following issuance.
- C.** The annual pest management consultant license shall expire on January 31 following issuance.
- D.** The annual commercial applicator license shall expire on January 31 following issuance.

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- E. The annual operator/technician license shall expire on January 31 following issuance.
  - F. The annual non-commercial applicator license shall expire on January 31 following issuance.
  - G. The annual public applicator license shall expire on January 31 following issuance.
  - H. The annual public pest management consultant license shall expire on January 31 following issuance.
  - I. The private applicator certification shall expire on January 31 five years following the year of issuance.
- [21.17.50.9 NMAC – Rp, 21.17.50.9 NMAC, 10/07/2025]

**21.17.50.10 RECORDS:**

- A. Each commercial applicator, non-commercial applicator and public applicator shall keep records for pesticides applied by them or persons under their direct supervision which shall include the following:
- (1) name of the person for whom the pesticide was applied;
  - (2) target pest(s) and crop or site;
  - (3) year, month, day, and time the pesticide was applied;
  - (4) brand name or common name of the pesticide and U.S. environmental protection agency registration number(s) of the pesticide(s);
  - (5) direction and estimated velocity of the wind and the temperature at the application site at the time the pesticide was applied; this requirement shall not apply to application of baits in bait stations or pesticide applications in or immediately adjacent to structures;
  - (6) concentration of the pesticide(s) applied; example: pounds, ounces or pints of pesticide formulation per gallon applied;
  - (7) volume of use-dilution preparation applied, if applied in categories 1A, 1B, 2, 3A, 3B, 5, 6, 7D and 8 as defined in Section 8;
  - (8) location of the land or city address to which pesticide was applied;
  - (9) if applicable, all aircraft identification numbers;
  - (10) name and address of the business or agency and the name of the individual making the application.
- B. Pesticide application records shall be completed and available to the department within 24 hours after the pesticide is applied.
- C. Pesticide application records shall be kept for a period of two years from the date of the application of any pesticide. Upon request, in writing, the department shall be furnished with a copy of these records.
- D. Upon written request, the customer shall be provided with a record of each application of pesticide applied to his land which includes all information given under Subsection A of 21.17.50.10 NMAC.
- E. Holders of private applicator licenses for M-44 sodium cyanide capsules shall submit to the director by September 15, their field records on the use of the M-44 capsules for the preceding period of September 1 through August 31.
- [21.17.50.10 NMAC – Rp, 21.17.50.10 NMAC, 10/07/2025]

**21.17.50.11 INSPECTION AND CARE OF EQUIPMENT:**

- A. Equipment used for applying pesticides by a commercial applicator shall be kept in good mechanical condition. Parts that show signs of wear or malfunction shall be replaced to prevent leakage and to assure uniform dispersal of the pesticide. Equipment, where applicable, shall be calibrated accurately to dispense the prescribed amount of pesticide. Hoses or parts not suitable or not intended for use on spray equipment shall not be used.
- B. Equipment to be licensed shall be inspected for, but not limited to, the following:
- (1) nozzle condition and function;
  - (2) suitable type of hose;
  - (3) tank condition;
  - (4) hose and pipe connections and condition;
  - (5) proper functioning of pressure regulators, if equipped;
  - (6) proper functioning of emergency dump valve;
  - (7) proper functioning of pump;
  - (8) decal or license plate affixed to the equipment.

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C. When the same equipment is used to apply different types of pesticides, it shall be cleaned thoroughly if:

- (1) an insecticide is used following the use of a herbicide or defoliant; or
- (2) residue from material used previously is not compatible with other pesticides to be used;

or

- (3) a pesticide has been used that would cause an illegal residue on cultivated crops or processed food.

D. Equipment shall be cleaned in a manner that no residues remain that will cause injury to land, humans, desirable plants or animals when making subsequent application of pesticides.

E. A uniform mixture shall be maintained in the equipment at all times while applying pesticides.

F. Pesticides that remain in spray equipment after a job is completed, and for which no further legal use is intended, shall be disposed of in a manner and location that would not cause unreasonable adverse effects on the environment. Pesticides from any equipment shall not be dumped along public highways, into streams, or at any location that would cause unreasonable adverse effects on the environment.

G. Bait boxes and watering stations placed by commercial applicators, non-commercial applicators, and public applicators shall be legibly marked with the business name of the commercial applicator or name of the public agency; the brand name or common name or chemical name of the pesticide or the active ingredient(s); the EPA registration number; and current phone number of the New Mexico poison control center in Albuquerque, New Mexico.

H. In food handling establishments rodenticides shall be placed in bait boxes or watering stations marked with the information required in Subsection G of 21.17.50.11 NMAC.

I. Service containers shall have affixed to them a legible label with the common name of the active ingredient(s) or the brand name of pesticide contained therein.

J. Securing pesticides and equipment on service vehicles: any container or portable application equipment containing pesticides or pesticide residues shall not be left unattended on a service vehicle unless the container or equipment is in a locked compartment or secured in such a manner so as to render it inaccessible to an unauthorized person.

[21.17.50.11 NMAC – Rp, 21.17.50.11 NMAC, 10/07/2025]

**21.17.50.12 PROTECTIVE EQUIPMENT:** All licensed certified applicators shall be required to make available protective equipment properly decontaminated and in proper working order, and advise their employees of its use to meet the safety requirements of the pesticide labeling.

[21.17.50.12 NMAC – Rp, 21.17.50.12 NMAC, 10/07/2025]

**21.17.50.13 APPLICATION OF PESTICIDES:**

A. A licensed certified applicator shall apply only those pesticides registered for use in New Mexico under his license category(s). Any person applying pesticides shall follow directions, rates and precautions stated on the approved label and labeling. Application or use of a pesticide in a manner inconsistent with the directions on the approved label and labeling shall constitute an illegal use of the pesticide. Restricted-use pesticides shall be applied only by licensed certified applicators or persons under their direct supervision.

B. If a commercial pesticide applicator uses a liability insurance policy as proof of financial responsibility, the applicator shall not apply pesticides exempted in the policy.

[21.17.50.13 NMAC – Rp, 21.17.50.13 NMAC, 10/07/2025]

**21.17.50.14 CHANGE OF BUSINESS STATUS:**

A. Any person issued a license under the Pesticide Control Act shall within 10 days notify the director in writing of any change of:

- (1) employment;
- (2) ownership of the firm;
- (3) the business firm name, address or any pertinent data on his application;
- (4) licensed employees.

B. Licenses issued under the New Mexico Pesticide Control Act are nontransferable.

[21.17.50.14 NMAC – Rp, 21.17.50.14 NMAC, 10/07/2025]

**21.17.50.15 DISPLAY AND STORAGE OF PESTICIDES:**



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A. Pesticides intended for distribution or sale shall be displayed or stored within an enclosed building or fenced area and shall not be displayed on sidewalks, parking lots or similar open areas.

B. Pesticides shall be stored in a manner that will reasonably insure that human foods, pet foods, drugs, animal feeds, commercial fertilizers, seeds or clothing will not be contaminated.

C. Pesticides in leaking, broken, corroded or otherwise damaged containers or with damaged or obscured labels, shall not be displayed or offered for sale.

[21.17.50.15 NMAC – Rp, 21.17.50.15 NMAC, 10/07/2025]

**21.17.50.16 IDENTIFICATION OF VEHICLES:**

A. All service vehicles used by a commercial applicator for distributing pesticides or devices shall be marked with:

- (1) name of the firm;
- (2) commercial applicator's license number.

B. All letters and numerals shall be of bold lettering at least one and one-half (1-1/2) inches high with a contrasting color as background. Markings shall be visible on both the right and left side of the service vehicle.

[21.17.50.16 NMAC – Rp, 21.17.50.16 NMAC, 10/07/2025]

**21.17.50.17 PESTICIDE DEALERS:**

A. Each applicant for a pesticide dealer license for outlets within New Mexico shall provide adequate facilities for the storage and distribution of restricted-use pesticides.

B. Each pesticide dealer shall keep a record of the sale of all restricted-use pesticides. Information to be recorded shall include:

- (1) name and license number of the certified applicator;
- (2) date of sale;
- (3) brand name of the pesticide product and its EPA registration number;
- (4) quantity of restricted-use pesticide sold.

C. A pesticide dealer license shall be, in addition to any other license or permit, required by law for offering or supplying technical advice, supervision or aid or making a recommendation to the user of highly toxic pesticides, restricted use pesticides, or both, by a dealer or his employees.

D. It shall be unlawful for a pesticide dealer to knowingly sell any restricted-use pesticide to any person who is not a licensed certified applicator, provided individuals under the direct supervision of a certified applicator may receive and transport restricted-use pesticides for a certified applicator.

[21.17.50.17 NMAC – Rp, 21.17.50.17 NMAC, 10/07/2025]

**21.17.50.18 LICENSE APPLICATION AND EXAMINATION: CERTIFICATION AND LICENSING:**

A. The applicant may elect to be examined in one or more of the classifications of pest control shown on the application. The examination fee, if applicable, shall be paid prior to administering any examination. If the applicant fails to pass any required examination, he may request, to take such failed examination at another date provided an additional examination fee, if applicable, is paid. A grade of 70 shall be passing on all examinations.

B. If an applicant has not completed all license requirements within 60 days from the date of the original application, then said applicant will be subject to the fees and requirements of a new applicant.

C. The director shall not consider any license application by any individual during the effective period of the license suspension or revocation of any license issued under the Pesticide Control Act.

[21.17.50.18 NMAC – Rp, 21.17.50.18 NMAC, 10/07/2025]

**21.17.50.19 REVIEW OF CERTIFICATION AND LICENSES:** The director may review any certification, license, or permit to determine if there are grounds for denial, suspension, or revocation action. A review shall be warranted in the case of:

- A. violation of some provision of the Pesticide Control Act or regulations promulgated thereunder;
- B. criminal conviction under Section 14(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended;
- C. a final order imposing civil penalty under Section 14(a) of amended FIFRA;
- D. certification obtained by cheating on an examination or providing false information about attendance or completion of required training or continuing education;
- E. a license is obtained or utilized for reasons other than the intended purpose of allowing purchase or use of pesticides as required under the New Mexico Pesticide Control Act or regulations promulgated thereunder.

[21.17.50.19 NMAC – Rp, 21.17.50.19 NMAC, 10/07/2025]

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**21.17.50.20 OPERATOR/TECHNICIAN TRAINING PERMITS:** A new employee of a licensed commercial applicator may work up to 60 calendar days under a operator/technician training permit provided another commercial applicator or technician licensed in New Mexico at least 6 months is present on the application site. Prior to expiration of the operator/technician training permit, permittees shall take the required examination(s). The permit shall be issued on the request of a licensed commercial applicator. The operator/technician training permit can not be extended.

[21.17.50.20 NMAC – Rp, 21.17.50.20 NMAC, 10/07/2025]

**21.17.50.21 PROOF OF FINANCIAL RESPONSIBILITY:**

- A. A commercial applicator license shall not be issued until the applicant has furnished proof of financial responsibility acceptable to the director. This requirement may be satisfied by:
  - (1) a certificate of liability insurance signed by an authorized insurance representative; or
  - (2) a certified copy of a liability insurance policy; or
  - (3) a surety bond.
- B. Proof of financial responsibility by any means other than a certified copy of the policy shall be provided by the issuing company on forms provided by or approved by the director.
- C. Proof of financial responsibility shall be clearly conditioned to cover liability resulting from the handling, storage, disposal, application, use or misuse of any pesticide.
- D. The director shall be notified in writing by the issuing company 10 days prior to any reduction or cancellation of insurance coverage.
- E. The insurer or surplus line broker shall be authorized to do business in New Mexico.

[21.17.50.21 NMAC – Rp, 21.17.50.21 NMAC, 10/07/2025]

**21.17.50.22 MINIMUM COVERAGE REQUIREMENTS:**

- A. Surety bond -- \$100,000.
- B. Liability insurance:
  - (1) Aircraft.
    - (a) Bodily injury -- \$25,000 each occurrence, \$50,000 aggregate.
    - (b) Property damage -- \$50,000 each occurrence.
    - (c) Single limit bodily injury and property damage -- \$100,000.
  - (2) Ground or manual.
    - (a) Bodily injury -- \$10,000 each occurrence -- \$25,000 aggregate.
    - (b) Property damage -- \$25,000 each occurrence.
    - (c) Single limit bodily injury and property damage -- \$50,000.
  - (3) Maximum amount of deductible (if applicable) -- \$1,000.

[21.17.50.22 NMAC – Rp, 21.17.50.22 NMAC, 10/07/2025]

**21.17.50.23 STORAGE AND DISPOSAL OF PESTICIDES AND PESTICIDE WASTES:**

- A. Pesticide waste and pesticides intended for use by commercial pesticide applicators shall be stored in enclosed, secured areas and shall be posted with warning signs in English and Spanish.
- B. Pesticide wastes, provided they are not also hazardous pesticide wastes, shall be disposed of in an approved sanitary landfill.
- C. Hazardous pesticide waste shall be disposed of in a permitted hazardous waste disposal site or in a designated area of an approved sanitary landfill under the supervision of the operator; provided, the department shall have the power to disallow disposal in an approved sanitary landfill if the hazardous pesticide waste is determined to be of such a nature that disposal should only be in a permitted hazardous waste disposal site.
- D. Waste pesticide containers shall be crushed or rendered non-serviceable and disposed of in an approved sanitary landfill.
- E. Rinsings and waste waters from the cleaning of pesticide apparatuses which can reasonably be expected to contain pesticide contaminants shall be contained in the cleanup area and not allowed to contaminate water or neighboring land.
- F. Waste pesticides from livestock dipping vats shall be placed in evaporation ponds so as to avoid contamination of any surface or ground waters.

2025 SEP 23 AM 9:12

- G. Pesticide waste or waste pesticide containers shall not be disposed of by open dumping, open burning, or water dumping in the state of New Mexico.
  - H. No pesticide waste shall be disposed of in any sewer or storm drain.
  - I. No pesticide waste or waste pesticide containers shall be disposed of in a manner inconsistent with its label or labeling.
- [21.17.50.23 NMAC – Rp, 21.17.50.23 NMAC, 10/07/2025]

**21.17.50.24 VARIANCE:**

- A. The director may grant a variance from any provision of 21.17.50.23 NMAC under special circumstances, provided such variance does not violate other state or federal laws.
  - B. A request for a variance shall be made to the director in writing and shall contain such information as the department deems necessary.
- [21.17.50.24 NMAC – Rp, 21.17.50.24 NMAC, 10/07/2025]

**21.17.50.25 FEES:**

- A. The annual registration fee for each pesticide or device registered shall be one hundred and fifty dollars (\$150.00).
  - B. The annual pesticide dealer license fee for each location or outlet within the state, or if there is no outlet within the state, for the principal out-of-state location or outlet, shall be one hundred dollars (\$100.00).
  - C. The annual pest management consultant license fee shall be one hundred dollars (\$100.00).
  - D. The annual commercial applicator license fee shall be one hundred dollars (\$100.00).
  - E. The annual operator/agricultural pilot/serviceman license fee shall be seventy five dollars (\$75.00).
  - F. The annual non-commercial applicator license fee shall be one hundred dollars (\$100.00).
  - G. The private applicator certification fee, or renewal thereof, shall be twenty-five dollars (\$25.00).
  - H. The fee for each additional inspection required to certify a unit of aircraft, ground or manual equipment that fails to pass inspection shall be twenty-five dollars (\$25.00).
  - I. The examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial applicator, non-commercial applicator or operator/agricultural pilot/serviceman shall be twenty dollars (\$20.00) per examination.
- [21.17.50.25 NMAC – Rp, 21.17.50.25 NMAC, 10/07/2025]

**HISTORY OF 21.17.50 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under:

- NMDA Rule 67-2, Pesticide Regulations, Regulatory Order No. 1, filed 6/12/1967.
- NMDA Rule 68-1, Pesticide Regulations, Regulatory Order No. 1, Amended, filed 6/12/1967.
- NMDA Rule 70-1, Pesticide Regulations, Regulatory Order No. 1, Section 3, filed 3/4/1970.
- NMDA Rule 70-2, Pesticide Regulations, Regulatory Order No. 2, filed 3/4/1970.
- NMDA Rule 70-3, Pesticide Regulations, Regulatory Order No. 1, filed 12/24/1970.
- NMDA Rule 71-4, Pesticide Regulations, Regulatory Order No. 2, filed 12/15/1971.
- NMDA Rule 72-2, Pesticide Regulations, Regulatory Order No. 3, filed 3/6/1972.
- NMDA Rule 73-8, Pesticide Regulations, Regulatory Order No. 1, filed 9/13/1973.
- NMDA Rule 74-5, Pesticide Regulations, Regulatory Order No. 2, filed 7/10/1974.
- NMDA Rule 75-5, Pesticide Regulations, Regulatory Order No. 3, filed 9/15/1975.
- NMDA Rule 78-3, Regulatory Order No. 4, Storage/Disposal of Pesticides, filed 9/21/1978.
- NMDA Rule 79-2, Regulatory Order No. 5, Definitions, Licensing, Equipment Inspections, Record Keeping of Pesticides by Regulated Applicators, filed 11/21/1979.
- NMDA Rule 79-4, Regulatory Order No. 7, Establishes Financial Responsibility for Commercial Applicators, filed 11/21/1979.
- NMDA Rule 79-5, Regulatory Order No. 8, Establishes Fee for Pesticide Registration and Licenses, filed 11/21/1979.
- NMDA Rule 81-2, Regulatory Order No. 10, Establishes Fee for Pesticide Registration and Licenses, filed 5/21/1981.
- NMDA Rule 85-4, Fees for Pesticide Registrations and Licenses, filed 8/7/1985.
- NMDA Rule 88-2, Fees for Pesticide Registrations and Licenses, filed 3/23/1988.



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2025 SEP 23 AM 9:12

**History of Repealed Material:**

21.17.50 NMAC – Pesticides, filed 7/1/1997, was repealed and replaced by 21.17.50 NMAC – Pesticides, effective 10/07/2025.

1 21.17.50 PESTICIDE RULE REPEAL AND REPLACEMENT  
2 RULEMAKING HEARING  
3  
4  
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6

7 Moderated by Les Owen  
8 Tuesday, July 29, 2025  
9 11:00 a.m.  
10

11  
12 Gerald Thomas Hall Auditorium, New Mexico State  
13 University  
14 940 College Drive (Room 194)  
15 Las Cruces, NM 88003  
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21 Reported by: Ryan Auten

22 JOB NO: 7452797  
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A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director NMDA

Stephen Baca, Assistant Division Director NMDA

Katie Crayton, NMDA Healthy Soil Program via Zoom

Troy Thompson, NMDA Pesticide Compliance via Zoom

Kamaile DeLong, NMDA State Pest Survey Coordinator via  
Zoom

Vanessa Fisher, Host

1                   P R O C E E D I N G S

2                   MR. OWEN: Good morning. At this time,  
3 we'll start the hearing That addresses the proposed  
4 repeal and replacement of the Pesticide Rule, Title  
5 21, Chapter 17, Part 50 of the New Mexico  
6 Administrative Code.

7                   My name is Les Owen, and I am Deputy  
8 Director with the New Mexico Department of  
9 Agriculture. Today, I will be officiating this  
10 hearing.

11                  Please make sure that you have signed  
12 in for the record and that your cell phone is off or  
13 silenced. Thank you.

14                  Copies of the proposed amendments to  
15 the Pesticide Rule were made available in  
16 strikethrough version and in clean copy form as you  
17 walked in.

18                  If you require copies, please hold your  
19 hand up and they will provide be provided to you. For  
20 our virtual participants, electronic copies are  
21 available on the department's website at  
22 nmdeptag.nmsu.edu.

23                  The day and date is Tuesday, July 29,  
24 2025, and the time is 11:00 a.m. This hearing is  
25 being held in person and virtually in New Mexico State



1 University's Gerald Thomas Hall Auditorium, located at  
2 nine 40 College Drive, Las Cruces, New Mexico. This  
3 is the published date, time, and location for this  
4 hearing.

5 This hearing is being recorded, and  
6 either a transcript of today's hearing or the video  
7 recording will be available from the department's  
8 webpage.

9 Following a summary of the proposed  
10 primary amendments, the public will be provided an  
11 opportunity to provide testimony regarding the  
12 proposed rule.

13 Mr. Baca will now provide a summary of  
14 the public notices, primary proposed amendments to the  
15 Pesticide Rule, and any related information.

16 MR. BACA: Good morning. I'm Steve  
17 Baca, an Assistant Director with the New Mexico  
18 Department of Agriculture.

19 The Pesticide Rule was promulgated  
20 under the authority of the Pesticide Act to address  
21 the specifics that regulate the registration of  
22 pesticides, licensing of specific pesticide  
23 applicators, record keeping, storage and disposal of  
24 pesticides, fee structure, and other related  
25 activities.

1 Public notices for this hearing were  
2 published as follows, and in accordance with state  
3 law; June 24, 2025, in the New Mexico Register; June  
4 24, 2025, in the Albuquerque Journal; June 24, 2025,  
5 in the Santa Fe New Mexican in Spanish and English;  
6 and June 25, 2025, in the Las Cruces Sun News.

7 Hearing notices were also posted in the  
8 New Mexico Sunshine Portal at the New Mexico  
9 Department of Agriculture District Station in  
10 Albuquerque and non-New Mexico Department of  
11 Agriculture's website in Spanish and English.

12 Copies of the proposed rule were made  
13 available at the New Mexico Department of Agriculture,  
14 Las Cruces main office and Lab building, New Mexico  
15 Department of Agriculture Veterinary Diagnostic  
16 Services Lab in Albuquerque, New Mexico Department of  
17 Agriculture Peanut Grading Station in Portales, and on  
18 the department's website.

19 Notification and the proposed rule were  
20 sent to the New Mexico Economic Development Small  
21 Business Regulatory Advisory Commission and to the  
22 Legislative Council Service. As of today, New Mexico  
23 Department of Agriculture has not received findings  
24 from either.

25 Notice of public hearings were also



1 sent to pesticide licensed individuals and businesses  
2 impacted by the amendments; to the Pest Management  
3 Association, a state industry organization  
4 representing licensed pesticide applicators; and to  
5 the Household Consumer Product Association, a national  
6 industry organization representing pesticide  
7 manufacturers.

8 Although the amendments are relatively  
9 few, the age of the Pesticide Rule required a repeal  
10 and replacement process to address updates to style  
11 and format and in conjunction with the New Mexico  
12 Department of Agriculture's proposed amendments.

13 Primary proposed changes to the  
14 existing Pesticide Rule include, change in expiration  
15 dates of annual licenses from December 31st to January  
16 31st and an increase in fees related to pesticide  
17 product registrations and licenses.

18 Comments received to date were  
19 primarily directed at concerns related to the change  
20 in expiration dates and the possible loss of a  
21 Continuing Education Units.

22 The change in expiration date was made  
23 to address relicensing issues that may occur during  
24 the winter holiday break when New Mexico Department of  
25 Agriculture staff are provided time off and are unable

1 to return calls and help licensees within a one- or  
2 two-day period. New Mexico Department of Agriculture  
3 staff have made policy changes that will allow for a  
4 transition year to ensure no licensee will lose  
5 Continuing Education Units.

6 Adjustments to the Continuing Education  
7 Units tracking system will also be made to ensure  
8 credits taken in January are applied either to the  
9 current or future licensing year to ensure a best  
10 benefit for the licensee. An explanation regarding  
11 licensees' concerns was posted on the New Mexico  
12 Department of Agriculture website and emailed to  
13 license holders.

14 Pesticide product registration fees are  
15 proposed to increase from \$100 to \$150 per product.  
16 Product registration fees in other states range from  
17 \$100 to \$2,300 per product.

18 The majority of license -- of pesticide  
19 licenses are issued to commercial applicators. This  
20 fee is proposed to increase from \$75 to \$100 per  
21 license. Both Colorado and Texas have a similar fee  
22 structure to New Mexico's with their commercial  
23 pesticide applicator license fees established at \$350  
24 and \$125, respectively.

25 Increased fee revenue will be used to



1 address mandated staff salary increases, to replace  
2 reduction in EPA grants and expected reductions in  
3 USDA grants, and to address increased operational  
4 costs associated as a result of reductions in USDA  
5 state staff and EPA changes in Continuing Education  
6 Units. Fees were last adjusted in 2010.

7 MR. OWEN: Thank you, Mr. Baca.

8 New Mexico Department of Agriculture  
9 has received written comments prior to this hearing  
10 from the following: Logan McGarrah, Emily Johnson,  
11 Jasmine Labine, Steve Kittrell, Bart Goetz, Keith  
12 Settle, Kelby Riley, Ottis Leach, William Cox, Russ  
13 Perkins, Ross Goetz, Joseph Ogden, Trent Murphree,  
14 Michael Ronquillo, and Greg Alpers.

15 We will now open the floor for  
16 comments. Please begin by stating your name and  
17 affiliation for the record. Please restrict your  
18 comments to the proposed content of the rule.

19 Please raise your hand and -- and wait  
20 until I call on you. At this time, we will be in  
21 accepted comments. Yes, sir.

22 PODIUM/OPEN FORUM: Logan McGarrah,  
23 immediate past president of the New Mexico Crop  
24 Production Association. On behalf of our membership,  
25 I would like to state for the record, we did initially

1 have some concerns with the date changing from  
2 December 31st to January 31st. I would also like the  
3 record to reflect that Assistant Director Baca has  
4 been very accommodating to us and helped us work  
5 through all those problems and we are now in support  
6 of the changes.

7 MR. OWEN: Thank you.

8 PODIUM/OPEN FORUM: Hold on. Wait a  
9 minute. My name's Terri Cates. I'm here on behalf of  
10 New Mexico Pest Management Association, and our  
11 association is in favor of all the changes as we think  
12 that this will greatly benefit our industry as well as  
13 our association.

14 MR. OWEN: Yes, sir.

15 PODIUM/OPEN FORUM: Russ Perkins with  
16 New Mexico Crop Production Association as well. I am  
17 responsible for the CEUs that we gather at our meeting  
18 typically in January. I would echo Logan's comments  
19 in favor of the change.

20 Steve was able to explain some things  
21 to us as far as my concern was over the CEUs and the  
22 timeframe between when our meeting ended and the new  
23 proposed date and everything, but it appears that  
24 that's been taken care of and a -- a process in place  
25 because of that ten-day time frame.



1                   So we're happy with where we are.

2                   MR. OWEN: Thank you.

3                   Okay. We will now begin to accept  
4 comments from our virtual participants. Please use  
5 the raise your hand function and I will call on you.

6                   Okay. Is there anyone else that would  
7 wish to provide comment? Seeing none, we will close  
8 the public oral comment period for this hearing.

9                   Written comments will be accepted until  
10 5:00 p.m., Thursday, July 31, 2025. All public  
11 comments will be presented to the Secretary/Director  
12 of the New Mexico Department of Agriculture, Mr. Jeff  
13 Witte, and will be submitted for consideration to the  
14 New Mexico State University Board of Regents.

15                   Submitted comments, and either a  
16 transcript of today's hearing and/or the recording  
17 will be available from the New Mexico Department of  
18 Agriculture's webpage.

19                   Thank you all for participating. We  
20 will close the hearing at 11:10.

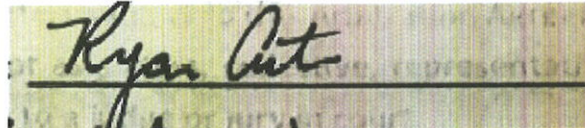
21                   (Whereupon, the meeting concluded at  
22 11:10 a.m.)

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CERTIFICATE

I, RYAN AUTEN, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

A rectangular box containing a handwritten signature in black ink. The signature appears to read "Ryan Auten" and is written over a horizontal line.

RYAN AUTEN  
Notary Public in and for the  
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, VENUS COLE, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



VENUS COLE

[100 - certify]

<b>1</b>	<b>7</b>	<b>advisory</b> 5:21	<b>auditorium</b>
<b>100</b> 7:15,17,20	<b>7452797</b> 1:22	<b>affiliation</b> 8:17	1:12 4:1
<b>11:00</b> 1:9 3:24	<b>75</b> 7:20	<b>age</b> 6:9	<b>auten</b> 1:21 11:2
<b>11:10</b> 10:20,22	<b>8</b>	<b>agriculture</b> 3:9	11:17
<b>125</b> 7:24	<b>88003</b> 1:15	4:18 5:9,13,15	<b>authority</b> 4:20
<b>150</b> 7:15	<b>9</b>	5:17,23 6:25	<b>available</b> 3:15
<b>17</b> 3:5	<b>940</b> 1:14	7:2,12 8:8	3:21 4:7 5:13
<b>194</b> 1:14	<b>a</b>	10:12	10:17
<b>2</b>	<b>a.m.</b> 1:9 3:24	<b>agriculture's</b>	<b>b</b>
<b>2,300</b> 7:17	10:22	5:11 6:12	<b>baca</b> 2:4 4:13
<b>2010</b> 8:6	<b>ability</b> 11:10	10:18	4:16,17 8:7 9:3
<b>2025</b> 1:8 3:24	12:7	<b>albuquerque</b>	<b>bart</b> 8:11
5:3,4,4,6 10:10	<b>able</b> 9:20	5:4,10,16	<b>behalf</b> 8:24 9:9
<b>21</b> 3:5	<b>accept</b> 10:3	<b>allow</b> 7:3	<b>benefit</b> 7:10
<b>21.17.50</b> 1:1	<b>accepted</b> 8:21	<b>alpers</b> 8:14	9:12
<b>24</b> 5:3,4,4	10:9	<b>amendments</b>	<b>best</b> 7:9 11:9
<b>25</b> 5:6	<b>accommodati...</b>	3:14 4:10,14	12:6
<b>29</b> 1:8 3:23	9:4	6:2,8,12	<b>board</b> 10:14
<b>3</b>	<b>accordance</b> 5:2	<b>annual</b> 6:15	<b>break</b> 6:24
<b>31</b> 10:10	<b>accurate</b> 11:9	<b>appears</b> 9:23	<b>building</b> 5:14
<b>31st</b> 6:15,16 9:2	12:5	<b>applicator</b> 7:23	<b>business</b> 5:21
9:2	<b>act</b> 4:20	<b>applicators</b>	<b>businesses</b> 6:1
<b>34885</b> 11:16	<b>action</b> 11:12,16	4:23 6:4 7:19	<b>c</b>
<b>34940</b> 12:13	12:8,12	<b>applied</b> 7:8	<b>c</b> 2:1 3:1
<b>350</b> 7:23	<b>activities</b> 4:25	<b>assistant</b> 2:4	<b>call</b> 8:20 10:5
<b>4</b>	<b>address</b> 4:20	4:17 9:3	<b>calls</b> 7:1
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<b>5</b>	<b>addresses</b> 3:3	<b>association</b> 6:3	<b>cates</b> 9:9
<b>50</b> 3:5	<b>adjusted</b> 8:6	6:5 8:24 9:10	<b>cell</b> 3:12
<b>5:00</b> 10:10	<b>adjustments</b>	9:11,13,16	<b>certificate</b> 11:1
	7:6	<b>attendees</b> 2:2	12:1
	<b>administrative</b>	<b>attorney</b> 11:14	<b>certify</b> 11:3
	3:6	12:10	12:2
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[ceus - forum]

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**[transcript - zoom]**

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New Mexico Department of Agriculture  
Pesticide Rule Rulemaking Hearing

Moderated by Les Owen, Deputy Director  
Thursday, July 31, 2025  
10:59 a.m.

Central New Mexico Community College Workforce  
Training Center  
5600 Eagle Rock Avenue Northeast  
Albuquerque, NM 87113

Reported by: James Cogswell  
JOB NO: 7452800

A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director, New Mexico Department of  
Agriculture

Steve Baca, Assistant Division Director, New Mexico  
Department of Agriculture

Katie Laney, Assistant Division Director, New Mexico  
Department of Agriculture

Uriel Fuentes, Assistant Division Director, New Mexico  
Department of Agriculture

Vanessa Fisher, New Mexico Department of Agriculture

Candie Sweetser, New Mexico Department of Agriculture

Bradley Lewis, New Mexico Department of Agriculture

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P R O C E E D I N G S

MR. OWEN: Good morning. At this time, we will start the hearing that addresses the proposed repeal and replacement of the Pesticide rule, Title 21, Chapter 17, Part 50 of the New Mexico Administrative Code.

My name is Les Owen, and I am deputy director with the New Mexico Department of Agriculture. Today I will be officiating this hearing. Please make sure that you have signed in for the record and that your cell phone is off or silenced. Thank you.

Copies of the proposed amendments to the Pesticide rule were made available in strikethrough version and in clean copy form as you walked in. If you require copies, please hold your hand up and they will be provided to you.

The day and date is Thursday, July 31, 2025, and the time is 11 a.m. This hearing is being held in person at the Central New Mexico Community College Workforce Training Center in Albuquerque, New Mexico, at 5600 Eagle Rock Avenue Northeast. This is the published date, time, and location for this hearing.

A transcript of today's hearing will be

1 available from the department's webpage. Following a  
2 summary of the proposed primary amendments, the public  
3 will be provided an opportunity to provide testimony  
4 regarding the proposed rule.

5 Mr. Baca will now provide a summary of  
6 the public notices, primary proposed amendments to the  
7 Pesticide rule, and any related information.

8 MR. BACA: Good morning. I am Steve  
9 Baca, an assistant division director with the New  
10 Mexico Department of Agriculture. Pesticide rule is  
11 promulgated under the authority of the Pesticide Act  
12 to address the specifics that regulate the  
13 registration of pesticides, licensing of specific  
14 pesticide applicators, record keeping, storage and  
15 disposal of pesticides, fee structure, and other  
16 pesticide-related activities.

17 Public notices for this hearing were  
18 published as follows in accordance with state law:  
19 June 24, 2025, in the New Mexico Register; June 24,  
20 2025, in the Albuquerque Journal; June 24, 2025, in  
21 the Santa Fe New Mexican in Spanish and English; and  
22 June 25, 2025, in the Las Cruces Sun News.

23 Hearing notices were also posted on the  
24 New Mexico Sunshine Portal and New Mexico Department  
25 of Agriculture District Station in Albuquerque and on

1 New Mexico Department of Agriculture's website in  
2 Spanish and English.

3 Copies of the proposed rule were made  
4 available at the New Mexico Department of Agriculture  
5 Las Cruces main office and lab building, New Mexico  
6 Department of Agriculture Veterinary Diagnostic  
7 Services Lab in Albuquerque, New Mexico Department of  
8 Agriculture Peanut Grading Station in Portales, and on  
9 the department's website.

10 Notification and the proposed rule were  
11 sent to the New Mexico Economic Development Small  
12 Business Regulatory Advisory Commission and to  
13 Legislative Council Service. As of today, New Mexico  
14 Department of Agriculture has not received findings  
15 from either.

16 Notice of public hearings were also  
17 sent to pesticide licensed individuals and businesses  
18 impacted by the amendments; to the Pest Management  
19 Association, the state industry organization  
20 representing licensed pesticide applicators; and to  
21 the Household Consumer Product Association [sic], a  
22 national industry organization representing pesticide  
23 manufacturers.

24 Although the amendments are relatively  
25 few, the age of the Pesticide rule required a repeal



1 and replacement process to address updates to style  
2 and format in conjunction with New Mexico Department  
3 of Agriculture's proposed amendments. Primary  
4 proposed changes to the existing Pesticide rule  
5 include change in expiration dates of annual licenses  
6 from December 31st to January 31st and an increase in  
7 fees related to pesticide product registrations and  
8 licenses.

9                   Comments received to date were  
10 primarily directed at concerns related to the change  
11 in the expiration date and the possible loss for  
12 continuing education units. The change in expiration  
13 date was made to address relicensing issues that may  
14 occur during the winter holiday break when New Mexico  
15 Department of Agriculture staff are provided time off  
16 and are unable to return calls and help licensees with  
17 a -- within a one- or two-day period.

18                   New Mexico Department of Agriculture  
19 staff have made policy changes that will allow for a  
20 transition year to ensure no licensee will lose  
21 continuing education units. Adjustments to the  
22 continuing education units tracking system will also  
23 be made to ensure credits taken in January are applied  
24 either to the current or future licensing year to  
25 ensure a best benefit for the licensee. An

1 explanation regarding licensees concerns was posted on  
2 the New Mexico Department of Agriculture website and  
3 emailed to license holders.

4 Pesticide product registration fees are  
5 proposed to increase from 100 to 150 dollars per  
6 product. Product registration fees in other states  
7 range from \$100 to \$2300 per product. The majority of  
8 pesticide licenses are both -- are issued to license  
9 to commercial applicators. This fee is proposed to  
10 increase from \$75 to \$100 per license. Both Colorado  
11 and Texas have similar fee structure to New Mexico's  
12 with their commercial pesticide applicator license  
13 fees established at \$350 and \$125 respectively.

14 Increased -- increased fee revenue will  
15 be used to address mandated staff salary increases,  
16 replace reduction in EPA grants and expected  
17 reductions in USDA grants, and increased operational  
18 costs associated as a result of reductions in USDA  
19 state staff and EPA changes in continuing education  
20 units. Fees were last adjusted in 2010.

21 MR. OWEN: Thank you, Mr. Baca.

22 New Mexico Department of Agriculture  
23 has received written comments prior to this hearing  
24 from the following: Logan McGarrah, Emily Johnson,  
25 Jasmine Labine, Steve Kittrell, Bart Goetz, Keith

1 Settle, Kelby Riley, Otis Leach, William Cox, Russ  
2 Perkins, Ross Goetz, Joseph Ogden, Trent Murphree,  
3 Michael Ronquillo, Greg Alpers, and Steven Bennett on  
4 behalf of the Household & Commercial Products  
5 Association.

6 We will now open the floor for  
7 comments. Please begin by stating your name and  
8 affiliation for the record. Please restrict your  
9 comments to the proposed content of the rule. Please  
10 raise your hand and I will call on you. At this time,  
11 we will begin accepting comments.

12 Is there anyone wishing to comment?  
13 Seeing none, we will close the comment period for this  
14 hearing. Written comments will be accepted until  
15 5 p.m. Thursday, July 31, 2025. All public comments  
16 will be presented to the secretary/director of New  
17 Mexico Department of Agriculture, Mr. Jeff Witte, and  
18 will be submitted for consideration to the New Mexico  
19 State University Board of Regents.

20 Submitted comments and either a  
21 transcript of today's hearing and/or the recording  
22 will be available from New Mexico Department of  
23 Agriculture's webpage.

24 Thank you all for participating. We  
25 will close this hearing at 11:06 a.m.

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(Whereupon, at 11:06 a.m., the  
proceeding was concluded.)

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CERTIFICATE

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

August 14, 2025



JAMES COGSWELL  
Notary Public in and for the  
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, RACHEL HUFF, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

August 14, 2025



RACHEL HUFF

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[hearing - o]

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**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Friday, June 27, 2025 9:47 AM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Logan McGarrah**

Email **logan.mcgarrh@corteva.com**

Please input your comments below: **I am opposed to changing the renewal dates for the licenses. The proposed changes will interfere with the traditional CEU earning opportunities that occur during meetings in January. I would like the renewal date to remain December 31st.**

**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Thursday, July 3, 2025 6:50 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Emily Johnson**

Email **emily.johnson@simplot.com**

Please input your comments below: **I am opposed to changing the license renewal date to January 31st, as this will interfere with the traditional timing of CEU classes. If under the new rule, CEU's earned in January could potentially count towards two separate license periods, I would like that language to be incorporated into the new rule.**

**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Wednesday, July 9, 2025 2:37 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Jasmin LaBine**

Email **jasmin.labine@nutrien.com**

Please input your comments below:

I am opposed to changing the license renewal date to January 31st, as this will interfere with the traditional timing of CEU classes. If under the new rule, CEU's earned in January could potentially count towards two separate license periods

75



**From:** Jotform <noreply@jotform.com>  
**Sent:** Wednesday, July 9, 2025 5:42 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Steve Kittrell**

Email **kittrells@helenaagri.com**

Please input your comments below:

I am opposed to changing the license renewal date from December 31 to January 31. This will just add confusion to CEU earners that go to meetings in January to earn New Mexico CEUs for pesticide renewal license in that year. In January, each year, New Mexico hay Association, New Mexico crop production association, NM cotton growers, and New Mexico aerial applicators all conduct their meetings for their members to get CEU's for their license renewal. These meetings were set up with the calendar year ending for license renewal, and have been in place For many many years. Evidently the NMDA gives everyone off in December, and that is the main purpose for changing the date, that is not a very good reason in my opinion.



**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Thursday, July 10, 2025 1:40 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Bart Goetz**

Email **pvcropadvisors@hotmail.com**

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**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Friday, July 18, 2025 10:21 AM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Keith Settle**

Email **keithsettle@hotmail.com**

Please input your comments below: **I am absolutely opposed to changing the dates from December 31st to January 31st.**

**The dates have been set for decades and for those of us who have been licensing for decades want to keep it that way!**

**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Monday, July 21, 2025 12:34 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Kelby Riley**

Email **kelby.riley@syngenta.com**

Please input your comments below:

I am opposed to changing the license renewal date to January 31st, as this will interfere with the traditional timing of CEU classes. If under the new rule, CEU's earned in January could potentially count towards two separate license periods, I would like that language to be incorporated into the new rule.

79

**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Monday, July 21, 2025 4:43 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Ottis Leach**

Email **orl@suddenlink.net**

Please input your comments below: **I strongly disagree with this legislation, if CEU's are are given in 2026 for 2025, tha just doesn't make sense.**

## Fisher, Vanessa

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Monday, July 21, 2025 9:57 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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### NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **William Cox**  
Email **coxco1980@gmail.com**

Please input your comments below:

I am opposed to changing the license date from December 31st to January 31st. This change is totally unnecessary and will only serve to add another layer of confusion to process that has worked reasonably well for many years. January is "meeting month". We attend the meetings, get our CEU's and are set for the year. Surely NMDA can figure out how to close out the year on December 31st and issue the licenses in a timely manner. You give us hoops to jump through, you give yourselves a raise (at our expense) and now you want to move the hoops? Seems pretty unnecessary to me.



**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Tuesday, July 22, 2025 7:39 AM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Russ Perkins**

Email **russ.perkins@bayer.com**

Please input your comments below:

I am opposed to changing the license renewal date to January 31st. Numerous Ag related organizations have traditionally held their meetings in January, giving their members opportunities to earn NMDA CEU credits early in the new year. Changing the dates has the potential to cause serious problems. I would prefer that the renewal dates stay as they are. If under the new rule, CEU's earned in January could potentially count towards two separate license periods, I would like that language to be incorporated into the new rule.

**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Thursday, July 24, 2025 8:25 AM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Ross Goetz**

Email **ross.goetz@nutrien.com**

Please input your comments below: **I am opposed to changing the license renewal date to January 31st, as this will interfere with the traditional timing of CEU classes.**

(83)

**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Thursday, July 24, 2025 9:04 AM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Joseph Ogden**

Email **j-ogden2010@hotmail.com**

Please input your comments below: **I am opposed to changing the license renewal date to January 31st, as this will interfere with the traditional timing of CEU classes. If under the new rule, CEU's earned in January could potentially count towards two separate license periods. This would cause issues for all involved.**

9A

**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Thursday, July 24, 2025 1:48 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Bart Goetz**

Email **pvcropadvisors@hotmail.com**

Please input your comments below: **I am opposed to the rule change for license renewal dates on January 31st. I try to go to meetings In January to get my CEUs. This time frame seems to short and I see problems going forward. I would suggest picking another date maybe November 31st.**

**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Thursday, July 24, 2025 5:46 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? Pesticides

Name Trent Murphree

Email trent.allen.murphree@basf.com

Please input your comments below:

I am opposed to changing the license renewal date to January 31st, as this will interfere with the traditional timing of CEU classes. If under the new rule, CEU's earned in January could potentially count towards two separate license periods, I would like that language to be incorporated into the new rule.



**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Friday, July 25, 2025 1:37 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Bart Goetz**

Email **pvcropadvisors@hotmail.com**

Please input your comments below: **I am opposed to the new date change. A lot people go to the January meetings to get the needed CEU's for the year ahead. I would suggest picking another date.**

**From:** Jotform <noreply@jotform.com>  
**Sent:** Friday, July 25, 2025 1:44 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment

**Follow Up Flag:** Follow up  
**Flag Status:** Completed



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Michael Ronquillo**

Email **ronquillom@helenaagri.com**

Please input your comments below: **Opposed to change of license renewal date to January 31. I believe it will negatively affect attendance of organizations that support New Mexico agriculture.**

**Fisher, Vanessa**

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**From:** Jotform <noreply@jotform.com>  
**Sent:** Sunday, July 27, 2025 5:25 PM  
**To:** NMDA, Comments  
**Subject:** Pesticides - Comment



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## NMDA Rulemaking Comments

Which rule would you like to submit a comment for? **Pesticides**

Name **Greg Alpers**

Email **alpersgreg@gmail.com**

Please input your comments below:

I am opposed to this change. This rule disrupts long established procedures that have served well. A change that can cause people to either have to many CEU's or not enough and to be totally confused about what counts and what does not count. I suggest leaving the Rule as is or change the date from Dec 31st to the 15th of December. This will fit Ag applicators better. It would also fit your leave policy of being closed the last two weeks of the year to follow University guidelines.

**TITLE 21        AGRICULTURE AND RANCHING**  
**CHAPTER 17    PEST, DISEASE, AND WEED CONTROL**  
**PART 50        PESTICIDES**

**21.17.50.1        ISSUING AGENCY:** New Mexico State University, New Mexico Department of Agriculture  
 [7/1/1997; 21.17.50.1 NMAC - Rn, 21 NMAC 17.50.1, 11/30/2005; A, 5/29/2009]  
 [MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007.]

**21.17.50.2        SCOPE:** Part 50 shall apply to all persons regulated under the Pesticide Control Act, including private applicators, commercial applicators, non-commercial applicators, public applicators, pest management consultants, pesticide dealers and pesticide manufacturers, and to all activities relating to the distribution and use of pesticides.  
 [7/1/1997; 21.17.50.2 NMAC - Rn, 21 NMAC 17.50.2, 11/30/2005]

**21.17.50.3        STATUTORY AUTHORITY:** Granted to the board of regents of New Mexico state university under the New Mexico Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation.  
 [7/1/1997; 21.17.50.3 NMAC - Rn, 21 NMAC 17.50.3, 11/30/2005]

**21.17.50.4        DURATION:** Permanent.  
 [7/1/1997; 21.17.50.4 NMAC - Rn, 21 NMAC 17.50.4, 11/30/2005]

**21.17.50.5        EFFECTIVE DATE:** October 15, 2025, unless a later date is cited in the history note at the end of a section.  
 [7/1/1997; 21.17.50.5 NMAC - Rn, 21 NMAC 17.50.5, 11/30/2005]

**21.17.50.6        OBJECTIVE:** The objective of Part 50 of Chapter 17 is to set criteria for the use of pesticides in New Mexico, including the licensing and certification of pesticide applicators, record keeping, equipment inspection, fees, storage and disposal of pesticides.  
 [7/1/1997; 21.17.50.6 NMAC - Rn, 21 NMAC 17.50.6, 11/30/2005]

**21.17.50.7        DEFINITIONS:**

**A.        "Active ingredient"** means any ingredient which will prevent, destroy, repel, control or mitigate a pest or which will act as a regulator, defoliant or desiccant.

**B.        "Aircraft"** means any fixed-wing aerial equipment or helicopter used to apply pesticides.

**C.        "Bait"** means an edible material containing a pesticide attractive to a pest.

**D.        "Certified applicator"** means any person who has complied with the certification requirements established by the department to use or supervise the use of any pesticide covered by a valid license issued by the department.

**E.        "Competent"** means properly qualified to perform functions associated with pesticide application and/or use, the degree of capability required being directly related to the nature of the activity and the associated responsibility.

**F.        "Defoliant"** means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

**G.        "Desiccant"** means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

**H.        "Direct supervision"** means verifiable instruction to a competent person as follows:

- (1) detailed guidance for applying and/or using the pesticide properly; and
- (2) provisions for contacting the certified applicator in the event he is needed; or
- (3) actual physical presence of a certified applicator when required by the label.

**I.        "Disposal"** means to abandon, deposit, inter, or otherwise discard of waste as a final action after its use has been achieved or a use is no longer intended.

**J.        "Fungus"** means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts) as, for example, rust, smut, mildew, mold and yeast, except those on or in processed food, beverages, or pharmaceuticals.

**K. "Ground equipment"** means any equipment used to supply pesticides that is operated on the ground and is self-propelled, or is mounted, drawn, or transported by a tractor, truck or other vehicle, and that is:

- (1) gravity fed;
- (2) mechanically driven by chain, gears or belts; or
- (3) obtains power or pressure from a power-take-off or engine.

**L. "Hazardous pesticide waste"** means any pesticide waste in a concentration or quantity, or a waste pesticide container which the board declares to be hazardous to the public health and safety, domestic livestock or wildlife or property.

**M. "Illegal residue"** means the amount of pesticide remaining in or on food or feed crops and crop by-products, or in meat, meat by-products, or in the fat or milk of animals in excess of tolerances established by the U.S. environmental protection agency (EPA).

**N. "Inert ingredient"** means any ingredient which has no active properties.

**O. "Manual equipment"** means any pressurized or electrically operated equipment (excluding hand-sized pressurized containers containing pesticides) used to apply pesticides that is carried or drawn as a complete unit by the person who applies the pesticide.

**P. "Open burning"** means the combustion of pesticide waste in any fashion other than by incineration in an incinerator approved and permitted by the New Mexico environment department and designed for that waste.

**Q. "Open dumping"** means the placing of pesticide waste in a land site other than a sanitary landfill as defined herein.

**R. "Operator technician"** means any person who uses any pesticide as an employee of a commercial applicator.

**S. "Permit"** means a written certificate of authority issued by the department to use or apply pesticides.

**T. "Pest"** means any living organism injurious to other living organisms (except man and viruses, bacteria, or other microorganisms in or on other living organisms other than plants) that is a vector of a disease, or is a parasite on another organism and includes, but is not limited to, organisms in the phyla, Platyhelminthes (flatworms, flukes, tapeworms), Nematelminthes (roundworms), Mollusca (snails), Annelida (earthworms), Arthropoda (centipedes, millipedes, spiders, mites, ticks, insects) and Chordata (fish, amphibians, reptiles, birds, mammals, excluding man).

**U. "Pest control operator"** means a commercial applicator certified in one or more of the license classification(s) 7A, 7B, 7C, or 7D of Paragraphs (10) through (13) of Subsection B of 21.17.50.8 NMAC.

**V. "Pesticide waste"** means any active or inert ingredient, or any combination thereof, of a labeled pesticide in either its packaged concentration or diluted for use which is intended for disposal. The term "pesticide waste" does not include any pesticide packaged in a form suitable for use in the household, or for agricultural use by a farmer or rancher.

**W. "Protective equipment"** means clothing, respirators, goggles or other equipment or materials used to shield an applicator against unintended exposure to pesticides.

**X. "Public pest management consultant"** means any individual who is employed by a governmental agency or municipality and who offers or supplies technical advice or makes recommendations to a user of restricted-use pesticides.

**Y. "Sanitary landfill"** means a land site for the disposal of wastes as specified under the environmental improvement board's solid waste management regulations in such a manner so as to preclude hazards to public health and safety, domestic livestock or wildlife, and loss of property by utilizing the principles of engineering to confine the wastes to the smallest practical area and to cover with soil.

**Z. "Service container"** means any container utilized to hold, store or transport a pesticide concentrate or a pesticide use-dilution preparation other than 1) the original labeled container provided by the manufacturer or 2) the application equipment. Containers used for waste pesticides are not deemed to be service containers.

**AA. "Service vehicle"** means any vehicle used to transport pesticide application equipment, or use-dilution preparation to the application site.

**BB. "Use-dilution preparation"** means a pesticide preparation which is mixed with a diluent and at a rate specified on the label or labeling which produces the concentration of the pesticide provided on the registered label or labeling.

**CC. "Waste pesticide container"** means any container intended for disposal which formerly held pesticides.



**DD. "Water dumping"** means the disposal of pesticide waste in or on lakes, ponds, rivers, sewers, arroyos or any watercourse, except properly designed and constructed manmade facilities approved by the New Mexico environmental improvement division.

**EE. "Weed"** means any plant which grows where not wanted.  
[7/1/1997; 21.17.50.7 NMAC - Rn, 21 NMAC 17.50.7, 11/30/2005; A, 3/14/2008]

#### **21.17.50.8 LICENSE CATEGORIES:**

**A.** This section delineates the license categories and the scope of operations which may be performed under each category. These license categories represent the certification examinations taken by commercial, public and non-commercial applicators, pest management consultants and public pest management consultants.

**B.** License category and code number:

- (1) 1A -- Agricultural pest control -- includes the control of insects, mites, plant, diseases, nematodes, and the use of soil fumigants, on agronomic crops.
- (2) 1B -- Agricultural weed control -- includes the control of undesirable plants that compete with agricultural crops for water and plant nutrients and includes the use of desiccants, fumigants and defoliant.
- (3) 1C -- Animal pest control -- includes spraying, dusting, dipping, or administering pesticides internally to control pests such as lice, mites, bots, fleas and flies on pets and livestock or treatment of places where animals are confined.
- (4) 2 -- Forest pest control -- includes the application of pesticides in forests, forest nurseries and forest seed producing areas.
- (5) 3A -- Ornamental and turf pest control: insecticides and fungicides -- includes the control of insect and disease pests in the maintenance and production of ornamental trees, shrubs, flowers and turf.
- (6) 3B -- Ornamental and turf pest control: herbicides -- includes the control of undesirable vegetation in the maintenance and production of ornamental trees, shrubs, flowers and turf.
- (7) 4 -- Seed treatment -- includes the treatment of seeds to control insects, plant diseases and other pests.
- (8) 5 -- Aquatic pest control -- includes the application of a pesticide to standing or running water to control algae, undesirable fish and other aquatic organisms, excluding public health pest control.
- (9) 6 -- Right-of-way pest control -- includes the control of vegetation along public roads, electric powerlines, pipelines, railway rights-of-way, around oil well, storage areas, airports and similar areas.
- (10) 7A -- Structural pest control -- includes the control of household pests, fabric pests and stored product pest.
- (11) 7B -- Vertebrate animal control -- includes the control of rodents, birds, bats and predators of wildlife and domestic animals.
- (12) 7C -- Fumigation -- includes the use of gases such as methyl bromide, hydrogen cyanide and phosphine to control pests in structures, railroad cars, stored grain and similar areas.
- (13) 7D -- Wood destroying pest control -- includes the control of termites, carpenter ants, wood-boring or tunneling beetles, fungi and other organisms which attack lumber in structures or sawed lumber.
- (14) 8 -- Public health pest control -- includes the control of mosquitoes, flies, fleas and other vectors that transmit human or animal diseases.
- (15) 9 -- Regulatory pest control -- includes state, federal or other governmental employees who control regulated and/or quarantined pests.
- (16) 10 -- Demonstration and research pest control -- includes:
  - (a) individuals who demonstrate to the public the proper use of restricted-use pesticides; or
  - (b) who conduct field research with pesticides.
- (17) 11 -- Other -- to be assigned by the director.

[7/1/1997; 21.17.50.8 NMAC - Rn, 21 NMAC 17.50.8, 11/30/2005; A, 3/14/2008]

**21.17.50.9 EXPIRATION DATE OF LICENSES:** The annual registration of pesticides and any licenses or certifications provided for in the Pesticide Control Act shall expire on the dates indicated in this section unless it has been revoked or suspended prior thereto by the director.

- A.** The annual pesticide or device registration shall expire on January 31 following issuance.
- B.** The annual pesticide dealer license shall expire on January 31 following issuance.
- C.** The annual pest management consultant license shall expire on January 31 following issuance.
- D.** The annual commercial applicator license shall expire on January 31 following issuance.

- E. The annual operator/technician license shall expire on January 31 following issuance.
  - F. The annual non-commercial applicator license shall expire on January 31 following issuance.
  - G. The annual public applicator license shall expire on January 31 following issuance.
  - H. The annual public pest management consultant license shall expire on January 31 following issuance.
  - I. The private applicator certification shall expire on January 31 five years following the year of issuance.
- [7/1/1997; 21.17.50.9 NMAC - Rn, 21 NMAC 17.50.9, 11/30/2005; A, 3/14/2008]

**21.17.50.10 RECORDS:**

- A. Each commercial applicator, non-commercial applicator and public applicator shall keep records for pesticides applied by them or persons under their direct supervision which shall include the following:
    - (1) name of the person for whom the pesticide was applied;
    - (2) target pest(s) and crop or site;
    - (3) year, month, day, and time the pesticide was applied;
    - (4) brand name or common name of the pesticide and U.S. environmental protection agency registration number(s) of the pesticide(s);
    - (5) direction and estimated velocity of the wind and the temperature at the application site at the time the pesticide was applied; this requirement shall not apply to application of baits in bait stations or pesticide applications in or immediately adjacent to structures;
    - (6) concentration of the pesticide(s) applied; example: pounds, ounces or pints of pesticide formulation per gallon applied;
    - (7) volume of use-dilution preparation applied, if applied in categories 1A, 1B, 2, 3A, 3B, 5, 6, 7D and 8 as defined in Section 8;
    - (8) location of the land or city address to which pesticide was applied;
    - (9) if applicable, all aircraft identification numbers;
    - (10) name and address of the business or agency and the name of the individual making the application.
  - B. Pesticide application records shall be completed and available to the department within 24 hours after the pesticide is applied.
  - C. Pesticide application records shall be kept for a period of two years from the date of the application of any pesticide. Upon request, in writing, the department shall be furnished with a copy of these records.
  - D. Upon written request, the customer shall be provided with a record of each application of pesticide applied to his land which includes all information given under Subsection A of 21.17.50.10 NMAC.
  - E. Holders of private applicator licenses for M-44 sodium cyanide capsules shall submit to the director by September 15, their field records on the use of the M-44 capsules for the preceding period of September 1 through August 31.
- [7/1/1997; 21.17.50.10 NMAC - Rn, 21 NMAC 17.50.10, 11/30/2005]

**21.17.50.11 INSPECTION AND CARE OF EQUIPMENT:**

- A. Equipment used for applying pesticides by a commercial applicator shall be kept in good mechanical condition. Parts that show signs of wear or malfunction shall be replaced to prevent leakage and to assure uniform dispersal of the pesticide. Equipment, where applicable, shall be calibrated accurately to dispense the prescribed amount of pesticide. Hoses or parts not suitable or not intended for use on spray equipment shall not be used.
- B. Equipment to be licensed shall be inspected for, but not limited to, the following:
  - (1) nozzle condition and function;
  - (2) suitable type of hose;
  - (3) tank condition;
  - (4) hose and pipe connections and condition;
  - (5) proper functioning of pressure regulators, if equipped;
  - (6) proper functioning of emergency dump valve;
  - (7) proper functioning of pump;
  - (8) decal or license plate affixed to the equipment.

C. When the same equipment is used to apply different types of pesticides, it shall be cleaned thoroughly if:

- (1) an insecticide is used following the use of a herbicide or defoliant; or
- (2) residue from material used previously is not compatible with other pesticides to be used;

or

- (3) a pesticide has been used that would cause an illegal residue on cultivated crops or processed food.

D. Equipment shall be cleaned in a manner that no residues remain that will cause injury to land, humans, desirable plants or animals when making subsequent application of pesticides.

E. A uniform mixture shall be maintained in the equipment at all times while applying pesticides.

F. Pesticides that remain in spray equipment after a job is completed, and for which no further legal use is intended, shall be disposed of in a manner and location that would not cause unreasonable adverse effects on the environment. Pesticides from any equipment shall not be dumped along public highways, into streams, or at any location that would cause unreasonable adverse effects on the environment.

G. Bait boxes and watering stations placed by commercial applicators, non-commercial applicators, and public applicators shall be legibly marked with the business name of the commercial applicator or name of the public agency; the brand name or common name or chemical name of the pesticide or the active ingredient(s); the EPA registration number; and current phone number of the New Mexico poison control center in Albuquerque, New Mexico.

H. In food handling establishments rodenticides shall be placed in bait boxes or watering stations marked with the information required in Subsection G of 21.17.50.11 NMAC.

I. Service containers shall have affixed to them a legible label with the common name of the active ingredient(s) or the brand name of pesticide contained therein.

J. Securing pesticides and equipment on service vehicles: any container or portable application equipment containing pesticides or pesticide residues shall not be left unattended on a service vehicle unless the container or equipment is in a locked compartment or secured in such a manner so as to render it inaccessible to an unauthorized person.

[7/1/1997; 21.17.50.11 NMAC - Rn, 21 NMAC 17.50.11, 11/30/2005]

**21.17.50.12 PROTECTIVE EQUIPMENT:** All licensed certified applicators shall be required to make available protective equipment properly decontaminated and in proper working order, and advise their employees of its use to meet the safety requirements of the pesticide labeling.

[7/1/1997; 21.17.50.12 NMAC - Rn, 21 NMAC 17.50.12, 11/30/2005]

**21.17.50.13 APPLICATION OF PESTICIDES:**

A. A licensed certified applicator shall apply only those pesticides registered for use in New Mexico under his license category(s). Any person applying pesticides shall follow directions, rates and precautions stated on the approved label and labeling. Application or use of a pesticide in a manner inconsistent with the directions on the approved label and labeling shall constitute an illegal use of the pesticide. Restricted-use pesticides shall be applied only by licensed certified applicators or persons under their direct supervision.

B. If a commercial pesticide applicator uses a liability insurance policy as proof of financial responsibility, the applicator shall not apply pesticides exempted in the policy.

[7/1/1997; 21.17.50.13 NMAC - Rn, 21 NMAC 17.50.13, 11/30/2005; A, 3/14/2008]

**21.17.50.14 CHANGE OF BUSINESS STATUS:**

A. Any person issued a license under the Pesticide Control Act shall within 10 days notify the director in writing of any change of:

- (1) employment;
- (2) ownership of the firm;
- (3) the business firm name, address or any pertinent data on his application;
- (4) licensed employees.

B. Licenses issued under the New Mexico Pesticide Control Act are nontransferable.

[7/1/1997; 21.17.50.14 NMAC - Rn, 21 NMAC 17.50.14, 11/30/2005]

**21.17.50.15 DISPLAY AND STORAGE OF PESTICIDES:**

A. Pesticides intended for distribution or sale shall be displayed or stored within an enclosed building or fenced area and shall not be displayed on sidewalks, parking lots or similar open areas.

B. Pesticides shall be stored in a manner that will reasonably insure that human foods, pet foods, drugs, animal feeds, commercial fertilizers, seeds or clothing will not be contaminated.

C. Pesticides in leaking, broken, corroded or otherwise damaged containers or with damaged or obscured labels, shall not be displayed or offered for sale.

[7/1/1997; 21.17.50.15 NMAC - Rn, 21 NMAC 17.50.15, 11/30/2005]

**21.17.50.16 IDENTIFICATION OF VEHICLES:**

A. All service vehicles used by a commercial applicator for distributing pesticides or devices shall be marked with:

- (1) name of the firm;
- (2) commercial applicator's license number.

B. All letters and numerals shall be of bold lettering at least one and one-half (1-1/2) inches high with a contrasting color as background. Markings shall be visible on both the right and left side of the service vehicle.

[7/1/1997; 21.17.50.16 NMAC - Rn, 21 NMAC 17.50.16, 11/30/2005]

**21.17.50.17 PESTICIDE DEALERS:**

A. Each applicant for a pesticide dealer license for outlets within New Mexico shall provide adequate facilities for the storage and distribution of restricted-use pesticides.

B. Each pesticide dealer shall keep a record of the sale of all restricted-use pesticides. Information to be recorded shall include:

- (1) name and license number of the certified applicator;
- (2) date of sale;
- (3) brand name of the pesticide product and its EPA registration number;
- (4) quantity of restricted-use pesticide sold.

C. A pesticide dealer license shall be, in addition to any other license or permit, required by law for offering or supplying technical advice, supervision or aid or making a recommendation to the user of highly toxic pesticides, restricted use pesticides, or both, by a dealer or his employees.

D. It shall be unlawful for a pesticide dealer to knowingly sell any restricted-use pesticide to any person who is not a licensed certified applicator, provided individuals under the direct supervision of a certified applicator may receive and transport restricted-use pesticides for a certified applicator.

[7/1/1997; 21.17.50.17 NMAC - Rn, 21 NMAC 17.50.17, 11/30/2005]

**21.17.50.18 LICENSE APPLICATION AND EXAMINATION: CERTIFICATION AND LICENSING:**

A. The applicant may elect to be examined in one or more of the classifications of pest control shown on the application. The examination fee, if applicable, shall be paid prior to administering any examination. If the applicant fails to pass any required examination, he may request, to take such failed examination at another date provided an additional examination fee, if applicable, is paid. A grade of 70 shall be passing on all examinations.

B. If an applicant has not completed all license requirements within 60 days from the date of the original application, then said applicant will be subject to the fees and requirements of a new applicant.

C. The director shall not consider any license application by any individual during the effective period of the license suspension or revocation of any license issued under the Pesticide Control Act.

[7/1/1997; 21.17.50.18 NMAC - Rn, 21 NMAC 17.50.18, 11/30/2005; A, 3/14/2008]

**21.17.50.19 REVIEW OF CERTIFICATION AND LICENSES:** The director may review any certification, license, or permit to determine if there are grounds for denial, suspension, or revocation action. A review shall be warranted in the case of:

- A. violation of some provision of the Pesticide Control Act or regulations promulgated thereunder;
- B. criminal conviction under Section 14(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended;
- C. a final order imposing civil penalty under Section 14(a) of amended FIFRA;
- D. certification obtained by cheating on an examination or providing false information about attendance or completion of required training or continuing education;
- E. a license is obtained or utilized for reasons other than the intended purpose of allowing purchase or use of pesticides as required under the New Mexico Pesticide Control Act or regulations promulgated thereunder.

[7/1/1997; 21.17.50.19 NMAC - Rn, 21 NMAC 17.50.19, 11/30/2005; A, 3/14/2008]

**21.17.50.20 OPERATOR/TECHNICIAN TRAINING PERMITS:** A new employee of a licensed commercial applicator may work up to 60 calendar days under a operator/technician training permit provided another commercial applicator or technician licensed in New Mexico at least 6 months is present on the application site. Prior to expiration of the operator/technician training permit, permittees shall take the required examination(s). The permit shall be issued on the request of a licensed commercial applicator. The operator/technician training permit can not be extended.

[7/1/1997; 21.17.50.20 NMAC - Rn, 21 NMAC 17.50.20, 11/30/2005; A, 3/14/2008]

**21.17.50.21 PROOF OF FINANCIAL RESPONSIBILITY:**

**A.** A commercial applicator license shall not be issued until the applicant has furnished proof of financial responsibility acceptable to the director. This requirement may be satisfied by:

- (1) a certificate of liability insurance signed by an authorized insurance representative; or
- (2) a certified copy of a liability insurance policy; or
- (3) a surety bond.

**B.** Proof of financial responsibility by any means other than a certified copy of the policy shall be provided by the issuing company on forms provided by or approved by the director.

**C.** Proof of financial responsibility shall be clearly conditioned to cover liability resulting from the handling, storage, disposal, application, use or misuse of any pesticide.

**D.** The director shall be notified in writing by the issuing company 10 days prior to any reduction or cancellation of insurance coverage.

**E.** The insurer or surplus line broker shall be authorized to do business in New Mexico.

[7/1/1997; 21.17.50.21 NMAC - Rn, 21 NMAC 17.50.21, 11/30/2005]

**21.17.50.22 MINIMUM COVERAGE REQUIREMENTS:**

**A.** Surety bond -- \$100,000.

**B.** Liability insurance:

- (1) Aircraft.
  - (a) Bodily injury -- \$25,000 each occurrence, \$50,000 aggregate.
  - (b) Property damage -- \$50,000 each occurrence.
  - (c) Single limit bodily injury and property damage -- \$100,000.
- (2) Ground or manual.
  - (a) Bodily injury -- \$10,000 each occurrence -- \$25,000 aggregate.
  - (b) Property damage -- \$25,000 each occurrence.
  - (c) Single limit bodily injury and property damage -- \$50,000.
- (3) Maximum amount of deductible (if applicable) -- \$1,000.

[7/1/1997; 21.17.50.22 NMAC - Rn, 21 NMAC 17.50.22, 11/30/2005]

**21.17.50.23 STORAGE AND DISPOSAL OF PESTICIDES AND PESTICIDE WASTES:**

**A.** Pesticide waste and pesticides intended for use by commercial pesticide applicators shall be stored in enclosed, secured areas and shall be posted with warning signs in English and Spanish.

**B.** Pesticide wastes, provided they are not also hazardous pesticide wastes, shall be disposed of in an approved sanitary landfill.

**C.** Hazardous pesticide waste shall be disposed of in a permitted hazardous waste disposal site or in a designated area of an approved sanitary landfill under the supervision of the operator; provided, the department shall have the power to disallow disposal in an approved sanitary landfill if the hazardous pesticide waste is determined to be of such a nature that disposal should only be in a permitted hazardous waste disposal site.

**D.** Waste pesticide containers shall be crushed or rendered non-serviceable and disposed of in an approved sanitary landfill.

**E.** Rinsings and waste waters from the cleaning of pesticide apparatuses which can reasonably be expected to contain pesticide contaminants shall be contained in the cleanup area and not allowed to contaminate water or neighboring land.

**F.** Waste pesticides from livestock dipping vats shall be placed in evaporation ponds so as to avoid contamination of any surface or ground waters.



G. Pesticide waste or waste pesticide containers shall not be disposed of by open dumping, open burning, or water dumping in the state of New Mexico.

H. No pesticide waste shall be disposed of in any sewer or storm drain.

I. No pesticide waste or waste pesticide containers shall be disposed of in a manner inconsistent with its label or labeling.

[7/1/1997; 21.17.50.23 NMAC - Rn, 21 NMAC 17.50.23, 11/30/2005]

**21.17.50.24 VARIANCE:**

A. The director may grant a variance from any provision of 21.17.50.23 NMAC under special circumstances, provided such variance does not violate other state or federal laws.

B. A request for a variance shall be made to the director in writing and shall contain such information as the department deems necessary.

[7/1/1997; 21.17.50.24 NMAC - Rn, 21 NMAC 17.50.24, 11/30/2005]

**21.17.50.25 FEES:**

A. The annual registration fee for each pesticide or device registered shall be one hundred and fifty dollars (\$150.00).

B. The annual pesticide dealer license fee for each location or outlet within the state, or if there is no outlet within the state, for the principal out-of-state location or outlet, shall be one hundred dollars (\$100.00).

C. The annual pest management consultant license fee shall be one hundred dollars (\$100.00).

D. The annual commercial applicator license fee shall be one hundred dollars (\$100.00).

E. The annual operator/agricultural pilot/serviceman license fee shall be seventy five dollars (\$75.00).

F. The annual non-commercial applicator license fee shall be one hundred dollars (\$100.00).

G. The private applicator certification fee, or renewal thereof, shall be twenty-five dollars (\$25.00).

H. The fee for each additional inspection required to certify a unit of aircraft, ground or manual equipment that fails to pass inspection shall be twenty-five dollars (\$25.00).

I. The examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial applicator, non-commercial applicator or operator/agricultural pilot/serviceman shall be twenty dollars (\$20.00) per examination.

[7/1/1997; 21.17.50.25 NMAC - Rn & A, 21 NMAC 17.50.25, 11/30/2005, A, 11/15/2010]

**HISTORY OF 21.17.50 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule 67-2, Pesticide Regulations, Regulatory Order No. 1, filed 6/12/1967.

NMDA Rule 68-1, Pesticide Regulations, Regulatory Order No. 1, Amended, filed 6/12/1967.

NMDA Rule 70-1, Pesticide Regulations, Regulatory Order No. 1, Section 3, filed 3/4/1970.

NMDA Rule 70-2, Pesticide Regulations, Regulatory Order No. 2, filed 3/4/1970.

NMDA Rule 70-3, Pesticide Regulations, Regulatory Order No. 1, filed 12/24/1970.

NMDA Rule 71-4, Pesticide Regulations, Regulatory Order No. 2, filed 12/15/1971.

NMDA Rule 72-2, Pesticide Regulations, Regulatory Order No. 3, filed 3/6/1972.

NMDA Rule 73-8, Pesticide Regulations, Regulatory Order No. 1, filed 9/13/1973.

NMDA Rule 74-5, Pesticide Regulations, Regulatory Order No. 2, filed 7/10/1974.

NMDA Rule 75-5, Pesticide Regulations, Regulatory Order No. 3, filed 9/15/1975.

NMDA Rule 78-3, Regulatory Order No. 4, Storage/Disposal of Pesticides, filed 9/21/1978.

NMDA Rule 79-2, Regulatory Order No. 5, Definitions, Licensing, Equipment Inspections, Record Keeping of Pesticides by Regulated Applicators, filed 11/21/1979.

NMDA Rule 79-4, Regulatory Order No. 7, Establishes Financial Responsibility for Commercial Applicators, filed 11/21/1979.

NMDA Rule 79-5, Regulatory Order No. 8, Establishes Fee for Pesticide Registration and Licenses, filed 11/21/1979.

NMDA Rule 81-2, Regulatory Order No. 10, Establishes Fee for Pesticide Registration and Licenses, filed 5/21/1981.

NMDA Rule 85-4, Fees for Pesticide Registrations and Licenses, filed 8/7/1985.

NMDA Rule 88-2, Fees for Pesticide Registrations and Licenses, filed 3/23/1988.

**History of Repealed Material: [RESERVED]**

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**TITLE 21        AGRICULTURE AND RANCHING**  
**CHAPTER 17    PEST, DISEASE, AND WEED CONTROL**  
**PART 50        PESTICIDES**

**21.17.50.1        ISSUING AGENCY:** New Mexico State University, New Mexico Department of Agriculture.  
 MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007.  
 [21.17.50.1 NMAC – Rp, 21.17.50.1 NMAC, 10/07/2025]

**21.17.50.2        SCOPE:** Part 50 shall apply to all persons regulated under the Pesticide Control Act, including private applicators, commercial applicators, non-commercial applicators, public applicators, pest management consultants, pesticide dealers and pesticide manufacturers, and to all activities relating to the distribution and use of pesticides.  
 [21.17.50.2 NMAC – Rp, 21.17.50.2 NMAC, 10/07/2025]

**21.17.50.3        STATUTORY AUTHORITY:** Granted to the board of regents of New Mexico state university under the New Mexico Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation.  
 [21.17.50.3 NMAC – Rp, 21.17.50.3 NMAC, 10/07/2025]

**21.17.50.4        DURATION:** Permanent.  
 [21.17.50.4 NMAC – Rp, 21.17.50.4 NMAC, 10/07/2025]

**21.17.50.5        EFFECTIVE DATE:** October 07, 2025, unless a later date is cited in the history note at the end of a section.  
 [21.17.50.5 NMAC – Rp, 21.17.50.5 NMAC, 10/07/2025]

**21.17.50.6        OBJECTIVE:** The objective of Part 50 of Chapter 17 is to set criteria for the use of pesticides in New Mexico, including the licensing and certification of pesticide applicators, record keeping, equipment inspection, fees, storage and disposal of pesticides.  
 [21.17.50.6 NMAC – Rp, 21.17.50.6 NMAC, 10/07/2025]

**21.17.50.7        DEFINITIONS:**

**A.        "Active ingredient"** means any ingredient which will prevent, destroy, repel, control or mitigate a pest or which will act as a regulator, defoliant or desiccant.

**B.        "Aircraft"** means any fixed-wing aerial equipment or helicopter used to apply pesticides.

**C.        "Bait"** means an edible material containing a pesticide attractive to a pest.

**D.        "Certified applicator"** means any person who has complied with the certification requirements established by the department to use or supervise the use of any pesticide covered by a valid license issued by the department.

**E.        "Competent"** means properly qualified to perform functions associated with pesticide application and/or use, the degree of capability required being directly related to the nature of the activity and the associated responsibility.

**F.        "Defoliant"** means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

**G.        "Desiccant"** means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

**H.        "Direct supervision"** means verifiable instruction to a competent person as follows:

- (1) detailed guidance for applying and/or using the pesticide properly; and
- (2) provisions for contacting the certified applicator in the event he is needed; or
- (3) actual physical presence of a certified applicator when required by the label.

**I.        "Disposal"** means to abandon, deposit, inter, or otherwise discard of waste as a final action after its use has been achieved or a use is no longer intended.

**J.        "Fungus"** means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts) as, for example, rust, smut, mildew, mold and yeast, except those on or in processed food, beverages, or pharmaceuticals.

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**K. "Ground equipment"** means any equipment used to supply pesticides that is operated on the ground and is self-propelled, or is mounted, drawn, or transported by a tractor, truck or other vehicle, and that is:

- (1) gravity fed;
- (2) mechanically driven by chain, gears or belts; or
- (3) obtains power or pressure from a power-take-off or engine.

**L. "Hazardous pesticide waste"** means any pesticide waste in a concentration or quantity, or a waste pesticide container which the board declares to be hazardous to the public health and safety, domestic livestock or wildlife or property.

**M. "Illegal residue"** means the amount of pesticide remaining in or on food or feed crops and crop by-products, or in meat, meat by-products, or in the fat or milk of animals in excess of tolerances established by the U.S. environmental protection agency (EPA).

**N. "Inert ingredient"** means any ingredient which has no active properties.

**O. "Manual equipment"** means any pressurized or electrically operated equipment (excluding hand-sized pressurized containers containing pesticides) used to apply pesticides that is carried or drawn as a complete unit by the person who applies the pesticide.

**P. "Open burning"** means the combustion of pesticide waste in any fashion other than by incineration in an incinerator approved and permitted by the New Mexico environment department and designed for that waste.

**Q. "Open dumping"** means the placing of pesticide waste in a land site other than a sanitary landfill as defined herein.

**R. "Operator technician"** means any person who uses any pesticide as an employee of a commercial applicator.

**S. "Permit"** means a written certificate of authority issued by the department to use or apply pesticides.

**T. "Pest"** means any living organism injurious to other living organisms (except man and viruses, bacteria, or other microorganisms in or on other living organisms other than plants) that is a vector of a disease, or is a parasite on another organism and includes, but is not limited to, organisms in the phyla, Platyhelminthes (flatworms, flukes, tapeworms), Nematelminthes (roundworms), Mollusca (snails), Annelida (earthworms), Arthropoda (centipedes, millipedes, spiders, mites, ticks, insects) and Chordata (fish, amphibians, reptiles, birds, mammals, excluding man).

**U. "Pest control operator"** means a commercial applicator certified in one or more of the license classification(s) 7A, 7B, 7C, or 7D of Paragraphs (10) through (13) of Subsection B of 21.17.50.8 NMAC.

**V. "Pesticide waste"** means any active or inert ingredient, or any combination thereof, of a labeled pesticide in either its packaged concentration or diluted for use which is intended for disposal. The term "pesticide waste" does not include any pesticide packaged in a form suitable for use in the household, or for agricultural use by a farmer or rancher.

**W. "Protective equipment"** means clothing, respirators, goggles or other equipment or materials used to shield an applicator against unintended exposure to pesticides.

**X. "Public pest management consultant"** means any individual who is employed by a governmental agency or municipality and who offers or supplies technical advice or makes recommendations to a user of restricted-use pesticides.

**Y. "Sanitary landfill"** means a land site for the disposal of wastes as specified under the environmental improvement board's solid waste management regulations in such a manner so as to preclude hazards to public health and safety, domestic livestock or wildlife, and loss of property by utilizing the principles of engineering to confine the wastes to the smallest practical area and to cover with soil.

**Z. "Service container"** means any container utilized to hold, store or transport a pesticide concentrate or a pesticide use-dilution preparation other than 1) the original labeled container provided by the manufacturer or 2) the application equipment. Containers used for waste pesticides are not deemed to be service containers.

**AA. "Service vehicle"** means any vehicle used to transport pesticide application equipment, or use-dilution preparation to the application site.

**BB. "Use-dilution preparation"** means a pesticide preparation which is mixed with a diluent and at a rate specified on the label or labeling which produces the concentration of the pesticide provided on the registered label or labeling.

**CC. "Waste pesticide container"** means any container intended for disposal which formerly held pesticides.

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**DD. "Water dumping"** means the disposal of pesticide waste in or on lakes, ponds, rivers, sewers, arroyos or any watercourse, except properly designed and constructed manmade facilities approved by the New Mexico environmental improvement division.

**EE. "Weed"** means any plant which grows where not wanted.  
[21.17.50.7 NMAC – Rp, 21.17.50.7 NMAC, 10/07/2025]

**21.17.50.8 LICENSE CATEGORIES:**

**A.** This section delineates the license categories and the scope of operations which may be performed under each category. These license categories represent the certification examinations taken by commercial, public and non-commercial applicators, pest management consultants and public pest management consultants.

**B.** License category and code number:

- (1) 1A -- Agricultural pest control -- includes the control of insects, mites, plant, diseases, nematodes, and the use of soil fumigants, on agronomic crops.
- (2) 1B -- Agricultural weed control -- includes the control of undesirable plants that compete with agricultural crops for water and plant nutrients and includes the use of desiccants, fumigants and defoliant.
- (3) 1C -- Animal pest control -- includes spraying, dusting, dipping, or administering pesticides internally to control pests such as lice, mites, bots, fleas and flies on pets and livestock or treatment of places where animals are confined.
- (4) 2 -- Forest pest control -- includes the application of pesticides in forests, forest nurseries and forest seed producing areas.
- (5) 3A -- Ornamental and turf pest control: insecticides and fungicides -- includes the control of insect and disease pests in the maintenance and production of ornamental trees, shrubs, flowers and turf.
- (6) 3B -- Ornamental and turf pest control: herbicides -- includes the control of undesirable vegetation in the maintenance and production of ornamental trees, shrubs, flowers and turf.
- (7) 4 -- Seed treatment -- includes the treatment of seeds to control insects, plant diseases and other pests.
- (8) 5 -- Aquatic pest control -- includes the application of a pesticide to standing or running water to control algae, undesirable fish and other aquatic organisms, excluding public health pest control.
- (9) 6 -- Right-of-way pest control -- includes the control of vegetation along public roads, electric powerlines, pipelines, railway rights-of-way, around oil well, storage areas, airports and similar areas.
- (10) 7A -- Structural pest control -- includes the control of household pests, fabric pests and stored product pest.
- (11) 7B -- Vertebrate animal control -- includes the control of rodents, birds, bats and predators of wildlife and domestic animals.
- (12) 7C -- Fumigation -- includes the use of gases such as methyl bromide, hydrogen cyanide and phosphine to control pests in structures, railroad cars, stored grain and similar areas.
- (13) 7D -- Wood destroying pest control -- includes the control of termites, carpenter ants, wood-boring or tunneling beetles, fungi and other organisms which attack lumber in structures or sawed lumber.
- (14) 8 -- Public health pest control -- includes the control of mosquitoes, flies, fleas and other vectors that transmit human or animal diseases.
- (15) 9 -- Regulatory pest control -- includes state, federal or other governmental employees who control regulated and/or quarantined pests.
- (16) 10 -- Demonstration and research pest control -- includes:
  - (a) individuals who demonstrate to the public the proper use of restricted-use pesticides; or
  - (b) who conduct field research with pesticides.
- (17) 11 -- Other -- to be assigned by the director.

[21.17.50.8 NMAC – Rp, 21.17.50.8 NMAC, 10/07/2025]

**21.17.50.9 EXPIRATION DATE OF LICENSES:** The annual registration of pesticides and any licenses or certifications provided for in the Pesticide Control Act shall expire on the dates indicated in this section unless it has been revoked or suspended prior thereto by the director.

- A.** The annual pesticide or device registration shall expire on January 31 following issuance.
- B.** The annual pesticide dealer license shall expire on January 31 following issuance.
- C.** The annual pest management consultant license shall expire on January 31 following issuance.
- D.** The annual commercial applicator license shall expire on January 31 following issuance.



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- E. The annual operator/technician license shall expire on January 31 following issuance.
  - F. The annual non-commercial applicator license shall expire on January 31 following issuance.
  - G. The annual public applicator license shall expire on January 31 following issuance.
  - H. The annual public pest management consultant license shall expire on January 31 following issuance.
  - I. The private applicator certification shall expire on January 31 five years following the year of issuance.
- [21.17.50.9 NMAC – Rp, 21.17.50.9 NMAC, 10/07/2025]

**21.17.50.10 RECORDS:**

- A. Each commercial applicator, non-commercial applicator and public applicator shall keep records for pesticides applied by them or persons under their direct supervision which shall include the following:
    - (1) name of the person for whom the pesticide was applied;
    - (2) target pest(s) and crop or site;
    - (3) year, month, day, and time the pesticide was applied;
    - (4) brand name or common name of the pesticide and U.S. environmental protection agency registration number(s) of the pesticide(s);
    - (5) direction and estimated velocity of the wind and the temperature at the application site at the time the pesticide was applied; this requirement shall not apply to application of baits in bait stations or pesticide applications in or immediately adjacent to structures;
    - (6) concentration of the pesticide(s) applied; example: pounds, ounces or pints of pesticide formulation per gallon applied;
    - (7) volume of use-dilution preparation applied, if applied in categories 1A, 1B, 2, 3A, 3B, 5, 6, 7D and 8 as defined in Section 8;
    - (8) location of the land or city address to which pesticide was applied;
    - (9) if applicable, all aircraft identification numbers;
    - (10) name and address of the business or agency and the name of the individual making the application.
  - B. Pesticide application records shall be completed and available to the department within 24 hours after the pesticide is applied.
  - C. Pesticide application records shall be kept for a period of two years from the date of the application of any pesticide. Upon request, in writing, the department shall be furnished with a copy of these records.
  - D. Upon written request, the customer shall be provided with a record of each application of pesticide applied to his land which includes all information given under Subsection A of 21.17.50.10 NMAC.
  - E. Holders of private applicator licenses for M-44 sodium cyanide capsules shall submit to the director by September 15, their field records on the use of the M-44 capsules for the preceding period of September 1 through August 31.
- [21.17.50.10 NMAC – Rp, 21.17.50.10 NMAC, 10/07/2025]

**21.17.50.11 INSPECTION AND CARE OF EQUIPMENT:**

- A. Equipment used for applying pesticides by a commercial applicator shall be kept in good mechanical condition. Parts that show signs of wear or malfunction shall be replaced to prevent leakage and to assure uniform dispersal of the pesticide. Equipment, where applicable, shall be calibrated accurately to dispense the prescribed amount of pesticide. Hoses or parts not suitable or not intended for use on spray equipment shall not be used.
- B. Equipment to be licensed shall be inspected for, but not limited to, the following:
  - (1) nozzle condition and function;
  - (2) suitable type of hose;
  - (3) tank condition;
  - (4) hose and pipe connections and condition;
  - (5) proper functioning of pressure regulators, if equipped;
  - (6) proper functioning of emergency dump valve;
  - (7) proper functioning of pump;
  - (8) decal or license plate affixed to the equipment.

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- C. When the same equipment is used to apply different types of pesticides, it shall be cleaned thoroughly if:
- (1) an insecticide is used following the use of a herbicide or defoliant; or
  - (2) residue from material used previously is not compatible with other pesticides to be used;
- or
- (3) a pesticide has been used that would cause an illegal residue on cultivated crops or processed food.
- D. Equipment shall be cleaned in a manner that no residues remain that will cause injury to land, humans, desirable plants or animals when making subsequent application of pesticides.
- E. A uniform mixture shall be maintained in the equipment at all times while applying pesticides.
- F. Pesticides that remain in spray equipment after a job is completed, and for which no further legal use is intended, shall be disposed of in a manner and location that would not cause unreasonable adverse effects on the environment. Pesticides from any equipment shall not be dumped along public highways, into streams, or at any location that would cause unreasonable adverse effects on the environment.
- G. Bait boxes and watering stations placed by commercial applicators, non-commercial applicators, and public applicators shall be legibly marked with the business name of the commercial applicator or name of the public agency; the brand name or common name or chemical name of the pesticide or the active ingredient(s); the EPA registration number; and current phone number of the New Mexico poison control center in Albuquerque, New Mexico.
- H. In food handling establishments rodenticides shall be placed in bait boxes or watering stations marked with the information required in Subsection G of 21.17.50.11 NMAC.
- I. Service containers shall have affixed to them a legible label with the common name of the active ingredient(s) or the brand name of pesticide contained therein.
- J. Securing pesticides and equipment on service vehicles: any container or portable application equipment containing pesticides or pesticide residues shall not be left unattended on a service vehicle unless the container or equipment is in a locked compartment or secured in such a manner so as to render it inaccessible to an unauthorized person.

[21.17.50.11 NMAC – Rp, 21.17.50.11 NMAC, 10/07/2025]

**21.17.50.12 PROTECTIVE EQUIPMENT:** All licensed certified applicators shall be required to make available protective equipment properly decontaminated and in proper working order, and advise their employees of its use to meet the safety requirements of the pesticide labeling.

[21.17.50.12 NMAC – Rp, 21.17.50.12 NMAC, 10/07/2025]

**21.17.50.13 APPLICATION OF PESTICIDES:**

A. A licensed certified applicator shall apply only those pesticides registered for use in New Mexico under his license category(s). Any person applying pesticides shall follow directions, rates and precautions stated on the approved label and labeling. Application or use of a pesticide in a manner inconsistent with the directions on the approved label and labeling shall constitute an illegal use of the pesticide. Restricted-use pesticides shall be applied only by licensed certified applicators or persons under their direct supervision.

B. If a commercial pesticide applicator uses a liability insurance policy as proof of financial responsibility, the applicator shall not apply pesticides exempted in the policy.

[21.17.50.13 NMAC – Rp, 21.17.50.13 NMAC, 10/07/2025]

**21.17.50.14 CHANGE OF BUSINESS STATUS:**

A. Any person issued a license under the Pesticide Control Act shall within 10 days notify the director in writing of any change of:

- (1) employment;
- (2) ownership of the firm;
- (3) the business firm name, address or any pertinent data on his application;
- (4) licensed employees.

B. Licenses issued under the New Mexico Pesticide Control Act are nontransferable.

[21.17.50.14 NMAC – Rp, 21.17.50.14 NMAC, 10/07/2025]

**21.17.50.15 DISPLAY AND STORAGE OF PESTICIDES:**

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A. Pesticides intended for distribution or sale shall be displayed or stored within an enclosed building or fenced area and shall not be displayed on sidewalks, parking lots or similar open areas.

B. Pesticides shall be stored in a manner that will reasonably insure that human foods, pet foods, drugs, animal feeds, commercial fertilizers, seeds or clothing will not be contaminated.

C. Pesticides in leaking, broken, corroded or otherwise damaged containers or with damaged or obscured labels, shall not be displayed or offered for sale.

[21.17.50.15 NMAC – Rp, 21.17.50.15 NMAC, 10/07/2025]

**21.17.50.16 IDENTIFICATION OF VEHICLES:**

A. All service vehicles used by a commercial applicator for distributing pesticides or devices shall be marked with:

- (1) name of the firm;
- (2) commercial applicator's license number.

B. All letters and numerals shall be of bold lettering at least one and one-half (1-1/2) inches high with a contrasting color as background. Markings shall be visible on both the right and left side of the service vehicle.

[21.17.50.16 NMAC – Rp, 21.17.50.16 NMAC, 10/07/2025]

**21.17.50.17 PESTICIDE DEALERS:**

A. Each applicant for a pesticide dealer license for outlets within New Mexico shall provide adequate facilities for the storage and distribution of restricted-use pesticides.

B. Each pesticide dealer shall keep a record of the sale of all restricted-use pesticides. Information to be recorded shall include:

- (1) name and license number of the certified applicator;
- (2) date of sale;
- (3) brand name of the pesticide product and its EPA registration number;
- (4) quantity of restricted-use pesticide sold.

C. A pesticide dealer license shall be, in addition to any other license or permit, required by law for offering or supplying technical advice, supervision or aid or making a recommendation to the user of highly toxic pesticides, restricted use pesticides, or both, by a dealer or his employees.

D. It shall be unlawful for a pesticide dealer to knowingly sell any restricted-use pesticide to any person who is not a licensed certified applicator, provided individuals under the direct supervision of a certified applicator may receive and transport restricted-use pesticides for a certified applicator.

[21.17.50.17 NMAC – Rp, 21.17.50.17 NMAC, 10/07/2025]

**21.17.50.18 LICENSE APPLICATION AND EXAMINATION: CERTIFICATION AND LICENSING:**

A. The applicant may elect to be examined in one or more of the classifications of pest control shown on the application. The examination fee, if applicable, shall be paid prior to administering any examination. If the applicant fails to pass any required examination, he may request, to take such failed examination at another date provided an additional examination fee, if applicable, is paid. A grade of 70 shall be passing on all examinations.

B. If an applicant has not completed all license requirements within 60 days from the date of the original application, then said applicant will be subject to the fees and requirements of a new applicant.

C. The director shall not consider any license application by any individual during the effective period of the license suspension or revocation of any license issued under the Pesticide Control Act.

[21.17.50.18 NMAC – Rp, 21.17.50.18 NMAC, 10/07/2025]

**21.17.50.19 REVIEW OF CERTIFICATION AND LICENSES:** The director may review any certification, license, or permit to determine if there are grounds for denial, suspension, or revocation action. A review shall be warranted in the case of:

- A. violation of some provision of the Pesticide Control Act or regulations promulgated thereunder;
- B. criminal conviction under Section 14(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended;
- C. a final order imposing civil penalty under Section 14(a) of amended FIFRA;
- D. certification obtained by cheating on an examination or providing false information about attendance or completion of required training or continuing education;
- E. a license is obtained or utilized for reasons other than the intended purpose of allowing purchase or use of pesticides as required under the New Mexico Pesticide Control Act or regulations promulgated thereunder.

[21.17.50.19 NMAC – Rp, 21.17.50.19 NMAC, 10/07/2025]

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**21.17.50.20 OPERATOR/TECHNICIAN TRAINING PERMITS:** A new employee of a licensed commercial applicator may work up to 60 calendar days under a operator/technician training permit provided another commercial applicator or technician licensed in New Mexico at least 6 months is present on the application site. Prior to expiration of the operator/technician training permit, permittees shall take the required examination(s). The permit shall be issued on the request of a licensed commercial applicator. The operator/technician training permit can not be extended.

[21.17.50.20 NMAC – Rp, 21.17.50.20 NMAC, 10/07/2025]

**21.17.50.21 PROOF OF FINANCIAL RESPONSIBILITY:**

**A.** A commercial applicator license shall not be issued until the applicant has furnished proof of financial responsibility acceptable to the director. This requirement may be satisfied by:

- (1) a certificate of liability insurance signed by an authorized insurance representative; or
- (2) a certified copy of a liability insurance policy; or
- (3) a surety bond.

**B.** Proof of financial responsibility by any means other than a certified copy of the policy shall be provided by the issuing company on forms provided by or approved by the director.

**C.** Proof of financial responsibility shall be clearly conditioned to cover liability resulting from the handling, storage, disposal, application, use or misuse of any pesticide.

**D.** The director shall be notified in writing by the issuing company 10 days prior to any reduction or cancellation of insurance coverage.

**E.** The insurer or surplus line broker shall be authorized to do business in New Mexico.

[21.17.50.21 NMAC – Rp, 21.17.50.21 NMAC, 10/07/2025]

**21.17.50.22 MINIMUM COVERAGE REQUIREMENTS:**

**A.** Surety bond -- \$100,000.

**B.** Liability insurance:

- (1) Aircraft.
  - (a) Bodily injury -- \$25,000 each occurrence, \$50,000 aggregate.
  - (b) Property damage -- \$50,000 each occurrence.
  - (c) Single limit bodily injury and property damage -- \$100,000.
- (2) Ground or manual.
  - (a) Bodily injury -- \$10,000 each occurrence -- \$25,000 aggregate.
  - (b) Property damage -- \$25,000 each occurrence.
  - (c) Single limit bodily injury and property damage -- \$50,000.
- (3) Maximum amount of deductible (if applicable) -- \$1,000.

[21.17.50.22 NMAC – Rp, 21.17.50.22 NMAC, 10/07/2025]

**21.17.50.23 STORAGE AND DISPOSAL OF PESTICIDES AND PESTICIDE WASTES:**

**A.** Pesticide waste and pesticides intended for use by commercial pesticide applicators shall be stored in enclosed, secured areas and shall be posted with warning signs in English and Spanish.

**B.** Pesticide wastes, provided they are not also hazardous pesticide wastes, shall be disposed of in an approved sanitary landfill.

**C.** Hazardous pesticide waste shall be disposed of in a permitted hazardous waste disposal site or in a designated area of an approved sanitary landfill under the supervision of the operator; provided, the department shall have the power to disallow disposal in an approved sanitary landfill if the hazardous pesticide waste is determined to be of such a nature that disposal should only be in a permitted hazardous waste disposal site.

**D.** Waste pesticide containers shall be crushed or rendered non-serviceable and disposed of in an approved sanitary landfill.

**E.** Rinsings and waste waters from the cleaning of pesticide apparatuses which can reasonably be expected to contain pesticide contaminants shall be contained in the cleanup area and not allowed to contaminate water or neighboring land.

**F.** Waste pesticides from livestock dipping vats shall be placed in evaporation ponds so as to avoid contamination of any surface or ground waters.

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**G.** Pesticide waste or waste pesticide containers shall not be disposed of by open dumping, open burning, or water dumping in the state of New Mexico.

**H.** No pesticide waste shall be disposed of in any sewer or storm drain.

**I.** No pesticide waste or waste pesticide containers shall be disposed of in a manner inconsistent with its label or labeling.

[21.17.50.23 NMAC – Rp, 21.17.50.23 NMAC, 10/07/2025]

**21.17.50.24 VARIANCE:**

**A.** The director may grant a variance from any provision of 21.17.50.23 NMAC under special circumstances, provided such variance does not violate other state or federal laws.

**B.** A request for a variance shall be made to the director in writing and shall contain such information as the department deems necessary.

[21.17.50.24 NMAC – Rp, 21.17.50.24 NMAC, 10/07/2025]

**21.17.50.25 FEES:**

**A.** The annual registration fee for each pesticide or device registered shall be one hundred and fifty dollars (\$150.00).

**B.** The annual pesticide dealer license fee for each location or outlet within the state, or if there is no outlet within the state, for the principal out-of-state location or outlet, shall be one hundred dollars (\$100.00).

**C.** The annual pest management consultant license fee shall be one hundred dollars (\$100.00).

**D.** The annual commercial applicator license fee shall be one hundred dollars (\$100.00).

**E.** The annual operator/agricultural pilot/serviceman license fee shall be seventy five dollars (\$75.00).

**F.** The annual non-commercial applicator license fee shall be one hundred dollars (\$100.00).

**G.** The private applicator certification fee, or renewal thereof, shall be twenty-five dollars (\$25.00).

**H.** The fee for each additional inspection required to certify a unit of aircraft, ground or manual equipment that fails to pass inspection shall be twenty-five dollars (\$25.00).

**I.** The examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial applicator, non-commercial applicator or operator/agricultural pilot/serviceman shall be twenty dollars (\$20.00) per examination.

[21.17.50.25 NMAC – Rp, 21.17.50.25 NMAC, 10/07/2025]

**HISTORY OF 21.17.50 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule 67-2, Pesticide Regulations, Regulatory Order No. 1, filed 6/12/1967.

NMDA Rule 68-1, Pesticide Regulations, Regulatory Order No. 1, Amended, filed 6/12/1967.

NMDA Rule 70-1, Pesticide Regulations, Regulatory Order No. 1, Section 3, filed 3/4/1970.

NMDA Rule 70-2, Pesticide Regulations, Regulatory Order No. 2, filed 3/4/1970.

NMDA Rule 70-3, Pesticide Regulations, Regulatory Order No. 1, filed 12/24/1970.

NMDA Rule 71-4, Pesticide Regulations, Regulatory Order No. 2, filed 12/15/1971.

NMDA Rule 72-2, Pesticide Regulations, Regulatory Order No. 3, filed 3/6/1972.

NMDA Rule 73-8, Pesticide Regulations, Regulatory Order No. 1, filed 9/13/1973.

NMDA Rule 74-5, Pesticide Regulations, Regulatory Order No. 2, filed 7/10/1974.

NMDA Rule 75-5, Pesticide Regulations, Regulatory Order No. 3, filed 9/15/1975.

NMDA Rule 78-3, Regulatory Order No. 4, Storage/Disposal of Pesticides, filed 9/21/1978.

NMDA Rule 79-2, Regulatory Order No. 5, Definitions, Licensing, Equipment Inspections, Record Keeping of Pesticides by Regulated Applicators, filed 11/21/1979.

NMDA Rule 79-4, Regulatory Order No. 7, Establishes Financial Responsibility for Commercial Applicators, filed 11/21/1979.

NMDA Rule 79-5, Regulatory Order No. 8, Establishes Fee for Pesticide Registration and Licenses, filed 11/21/1979.

NMDA Rule 81-2, Regulatory Order No. 10, Establishes Fee for Pesticide Registration and Licenses, filed 5/21/1981.

NMDA Rule 85-4, Fees for Pesticide Registrations and Licenses, filed 8/7/1985.

NMDA Rule 88-2, Fees for Pesticide Registrations and Licenses, filed 3/23/1988.

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**History of Repealed Material:**

21.17.50 NMAC – Pesticides, filed 7/1/1997, was repealed and replaced by 21.17.50 NMAC – Pesticides, effective 10/07/2025.