This is an amendment to 21.17.50 NMAC, Sections 7 - 11, 13, 15, 17 - 22 and 25, effective April 01, 2027.

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.**~~] **B. "Bait"** means an edible material containing a pesticide attractive to a pest.

[~~**D.**~~] **C. "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.**~~] **D. "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.**~~] **E. "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.**~~] **F. "Desiccant"** means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

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

(1) detailed guidance for applying [~~and/or~~] and using the pesticide properly; [~~and~~]

(2) provisions for contacting the certified applicator in the event [~~he~~] the certified applicator is needed; [~~or~~]

(3) actual physical presence of a certified applicator when required by the label; and

(4) providing and maintaining records of WPS training of employees if you are a private applicator.

[~~**I.**~~] **H. "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.**~~] **I. "Fungus"** means any member of a kingdom of eukaryotic organisms that contain defined nuclei but lack chlorophyll, such as mushrooms, [~~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.**~~] **J. "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.**~~] **K. "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.**~~] **L. "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.**~~] **M. "Inert ingredient"** means any ingredient which has no active properties.

[~~**O.**~~] **N. "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.**~~] **O. "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.**~~] **P. "Open dumping"** means the placing of pesticide waste in a land site other than a sanitary landfill as defined herein.

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

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

[~~T.~~] **S. "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), Nemathelminthes (roundworms), Mollusca (snails), Annelida (earthworms), Arthropoda (centipedes, millipedes, spiders, mites, ticks, insects) and Chordata (fish, amphibians, reptiles, birds, mammals, excluding man).

[~~U.~~] **T. "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.~~] **U. "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.~~] **V. "Protective equipment"** means clothing, respirators, goggles or other equipment or materials used to shield an applicator against unintended exposure to pesticides.

[~~X.~~] **W. "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.~~] **X. "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.~~] **Y. "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.~~] **Z."Service vehicle"** means any vehicle used to transport pesticide application equipment, or use-dilution preparation to the application site.

[~~BB.~~] **AA. "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.~~] **BB. "Waste pesticide container"** means any container intended for disposal which formerly held pesticides.

[~~DD.~~] **CC. "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.~~] **DD. "Weed"** means any plant which grows where not wanted.

[21.17.50.7 NMAC – Rp, 21.17.50.7 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.8 LICENSE CATEGORIES:

[~~A.~~] **Certification categories:** 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)**~~] **A.** lA -- Agricultural [~~pest control~~] pests -- includes the use of pesticides for the control of insects [~~, mites, plant,~~] and other invertebrates, plant diseases, nematodes, and [~~the use of soil fumigants, on agronomic crops~~] similar pests in agricultural sites.

[~~**(2)**~~] **B.** lB -- Agricultural [~~weed control~~] weeds -- includes the use of pesticides for the control of undesirable plants [~~that compete with agricultural crops for water and plant nutrients and includes the use of~~] or as desiccants [~~, fumigants and~~] or defoliants in agricultural sites.

[~~**(3)**~~] **C.** lC – [~~Animal pest control~~] Pests of animals -- includes [~~spraying, dusting, dipping, or administering pesticides internally~~] the use of pesticides to control [~~pests such as~~] lice, mites, [~~bots,~~] fleas [~~and~~], flies [~~on~~] and other pests of pets [~~and~~], livestock or [~~treatment of~~] other animals, and the use of pesticides in places where animals are confined.

D. 1D – Aerial Application – includes the application of pesticides by manned or unmanned fixed or rotary wing aircraft.

[~~**(4)**~~] **E.** 2-- Forest [~~pest control~~] pests and weeds -- includes the [~~application~~] use of pesticides to control pests and weeds in forests[~~,~~] and forest nurseries [~~and forest seed producing areas~~].

[~~**(5)**~~] **F.** 3A -- Ornamental and turf [~~pest control: insecticides and fungicides~~] invertebrate and disease pests -- includes the use of pesticides to control [~~of insect~~] insects and [~~disease~~] other invertebrates, plant diseases, nematodes, and similar pests in [~~the maintenance and production of~~] ornamental [~~trees, shrubs, flowers and turf~~] sites such as lawns, landscapes, parks, golf courses, nurseries, and athletic fields.

[~~**(6)**~~] **G.** 3B -- Ornamental and turf [~~pest control: herbicides~~] weeds -- includes the use of pesticides to control [~~of undesirable vegetation in the maintenance and production of~~] weeds in ornamental [~~trees, shrubs, flowers and turf~~] sites such as lawns, landscapes, parks, golf courses, nurseries, and athletic fields.

[~~**(7)**~~] **H.** 4 -- Seed treatment -- includes the [~~treatment of~~] use of pesticides on plant seeds to control insects, plant diseases and other pests.

[~~**(8)**~~] **I.** 5 -- Aquatic [~~pest control~~] pests and weeds -- includes the [~~application of a pesticide to standing or running water~~] use of pesticides to control algae, undesirable fish and other aquatic organisms, excluding public health [~~pest control~~] pests, in aquatic sites.

J. 6A – Industrial wood preservation – includes the use of pesticides to control wood destroying organisms such as insects or fungi in wood products before those products are used in construction, and to treat in place utility poles, pilings, bridge supports, and similar elements. Applicators shall demonstrate knowledge of common pests, application techniques, disposal, application equipment, calibration of equipment, label interpretation, and usage of pesticides as they relate to wood treatment.

[~~**(9)**~~] **K.** 6B -- Right-of-way [~~pest control~~] and industrial weeds -- includes the use of pesticides to control [~~of~~] vegetation along public roads, electric powerlines, pipelines, railway rights-of-way, around oil [~~well~~] wells, storage areas, airports and similar areas.

[~~**(10)**~~] **L.** 7A -- Structural [~~pest control~~] invertebrate pests -- includes the use of pesticides other than gases to control [~~of household pests, fabric pests and stored product pest~~] household invertebrate pests in and around structures such as residences, schools, hospitals, offices, and other buildings.

[~~**(11)**~~] **M.** 7B – Structural Vertebrate [~~animal control~~] pests -- includes the use of pesticides other than gases to control [~~of~~] rodents, birds, [~~bats and predators of wildlife and domestic animals~~] and other vertebrate pests in and around structures such as residences, schools, hospitals, offices, warehouses, and other buildings.

[~~**(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)**~~] **N.** 7D – (Termite and other) Wood destroying [~~pest control~~] pests -- includes the use of pesticides to control [~~of~~] termites, carpenter ants, [~~wood-boring or tunneling~~] beetles, fungi and other [~~organisms~~] pests which attack lumber in structures or sawed [~~lumber~~] timber.

[~~**(14)**~~] **O.** 8 -- Public health [~~pest control~~] pests -- includes the use of pesticides to control [~~of~~] pests such as mosquitoes, flies, fleas and other vectors that transmit human or animal diseases.

[~~**(15)**~~] **P.** 9 -- Regulatory [~~pest control~~] pests -- includes [~~state, federal or other governmental~~] the use of pesticides by federal or state employees [~~who~~] to control regulated [~~and/or~~] or quarantined pests. Applicators must hold at least one specific pest control category in addition to Regulatory pests.

[~~**(16)**~~] **Q.** 10A -- Demonstration [~~and research~~] pest control – [~~includes:~~] Individuals who demonstrate to the public the proper use of restricted use pesticides. Applicator must hold at least one specific pest control category in addition to Demonstration.

[~~**(a)** individuals who demonstrate to the public the proper use of restricted use pesticides; or~~

~~**(b)** who conduct field research with pesticides.~~]

[~~**(17)**~~] **R.** [~~11 -- Other -- to be assigned by the director.~~] 10B – Research pest control – Individuals who conduct field research with pesticides. Applicator must hold at least one specific pest control category in addition to Research.

S. 11A – Soil Fumigation – includes the use of fumigants to control pests in agricultural soil.

T. 11B – Structural fumigation – includes the use of fumigants to control pests in and around structures such as residences, schools, hospitals, offices, and other buildings associated with human use, and pests of bulk commodities in structures such as rail cars, grain silos, or other confined spaces.

U. 11C – Rodent burrow fumigation – includes the use of fumigants to control burrowing rodent pests.

V. 12A – Wildlife pests – includes the use of pesticides to control rodents, birds, and other wildlife, other than predators, away from structures.

W. 12B – Predator control – the use of LPCs or M-44s to control predators of livestock, other domestic animals, or wildlife. Open only to permanent employees of government animal damage control agencies.

X. 13 – Other Limited Use – The use of a very limited number of specialized pesticides in or on a very limited number of sites and situations not adequately covered by other categories in this section. Requirements for this category shall be assigned by the director.

(1) 13A – Cooling Tower – Includes the use of pesticides to control microbial growth in water cooling towers. Applicators must demonstrate a practical knowledge of types of operating systems and characteristics that affect target organisms, application methods, and potential hazards associated with treatment methods and procedures used for control.

(2) 13B – Grain Storage – Includes the use of non-fumigant pesticides to control pests in grain storage areas. Applicators must demonstrate a practical knowledge of types of application methods, safety procedures, usage calculations, knowledge of common pests, label interpretation, proper protective equipment use and safety measures for working in grain storage sites.

(3) 13C – Sewer Root Control – Includes the use of pesticides to control roots growing in sewer pipes. Applicators must demonstrate practical knowledge of label interpretation, regulations, application techniques, disposal, environmental impacts, integrated pest management, and usage calculations as they pertain to sewer root control.

(4) 13D – Zona Stat – Includes the use of a restricted use pesticide for the control of wild horses in conservation programs. Applicator must demonstrate a practical knowledge about the Zona Stat product, safety measures when using the Zona Stat product, application methods, and protective equipment requirements as well as label use restrictions and treatment timing.

[21.17.50.8 NMAC – Rp, 21.17.50.8 NMAC, 10/07/2025; A, 04/01/2027]

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~~] operator 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 [~~Janaury~~] 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; A, 04/01/2027]

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~~] bordering 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 lA, lB, 2, 3A, 3B, 5, 6, 7D and 8 as defined in Section 8. Total volume of all restricted use pesticides when applied for any license category;

(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;

(11) License/certification number of persons making/supervising the pesticide application;

(12) Size of the area treated; and

(13) any other records required under 40 code of federal regulations 171.201(e).

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; A, 04/01/2027]

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.

[21.17.50.11 NMAC – Rp, 21.17.50.11 NMAC, 10/07/2025; A, 04/01/2027]

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.

C. Requirements for the certified applicator.

(1) The certified applicator must have a practical knowledge of applicable Federal, State, and Tribal supervisory requirements, including any requirements on the product label and labeling regarding the use of restricted use pesticides by non-certified applicators.

(2) The certified applicator must be certified in each category as set forth in 40 code of federal regulations 171.101 and 40 code of federal regulations 171.105(a) through (c) applicable to the supervised pesticide use.

D. The certified applicator must ensure that each non-certified applicator using a restricted use pesticide under his or her direct supervision meets all of the following requirements before using a restricted use pesticide:

(1) The non-certified applicator has satisfied the qualification requirements under paragraph (c) of 40 code of federal regulations 171.201.

(a) The non-certified applicator has been trained in accordance with 40 code of federal regulations 171.201(d) within the last 12 months.

(b) The non-certified applicator has met the training requirements for an agricultural handler under 40 code of federal regulations 170.501 within the last 12 months.

(c) The non-certified applicator has met the requirements established by a certifying authority that meet or exceed the standards in 40 code of federal regulations 171.201(c)(1).

(2) The non-certified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides.

(3) The non-certified applicator has met the minimum age of 18 years old required to use restricted use pesticides under the supervision of a certified applicator.

E. Use-specific conditions that must be met in order for a non-certified applicator to use a restricted use pesticide. The certified applicator must ensure that all of the following requirements are met before allowing a non-certified applicator to use a restricted use pesticide under his or her direct supervision:

(1) The certified applicator must ensure that the non-certified applicator has access to the applicable product labeling at all times during its use.

(2) Where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, the certified applicator must ensure that any non-certified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.

(3) The certified applicator must provide to each non-certified applicator before use of a restricted use pesticide instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g. surface and ground water, endangered species, local populations) and the conditions of application (e.g. equipment, method of application, formulation) might increase or decrease the risk of adverse effects. The certified applicator must provide this information in a manner that the non-certified applicator can understand.

(4) The certified applicator must ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the non-certified applicator, other persons, or the environment.

(5) The certified applicator must ensure that a means to immediately communicate with the certified applicator is available to each non-certified applicator using restricted use pesticides under his or her direct supervision.

(6) If the certified applicator is a commercial applicator, the certified applicator must create or verify the existence of the records required by 40 code of federal regulations 171.201(e)(iii). The applicator must maintain records of this training for inspection by the department for a period of two years from the date of training.

(7) For operators under the supervision of a commercial applicator, the commercial applicator must create or verify records containing the following: name of operator, expiration date of license, license number and date exam was passed.

[21.17.50.13 NMAC – Rp, 21.17.50.13 NMAC, 10/07/2025; A, 04/01/2027]

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~~] ensure 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; A, 04/01/2027]

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 or distribution of all restricted-use pesticides for two years from the date of sale/distribution. Information to be recorded shall include:

(1) name, address of residence or principal place of business, and license number of the certified and non-certified applicator;

(2) expiration date and certification categories of the certified applicator relevant to the pesticide sold;

[~~**(2)**~~] **(3)** date of sale;

[~~**(3)**~~] **(4)** brand name of the pesticide product and its EPA registration number;

[~~**(4)**~~] **(5)** quantity of restricted-use pesticide sold; and

(6) emergency exemption of state special local need registration number if applicable.

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]; A, 04/01/2027

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.~~] Certification exams shall meet or exceed standards set by US EPA in 40 code of federal regulations Part 171.103(a)(2).

D. All persons seeking to become a certified applicator must be at least 18 years old at the time of examination for certification. Operators under the direct supervision of a commercial applicator and noncertified applicators under the direct supervision of a private applicator must be at least 18 years old.

(1) Examinations standards:

(a) The examination must be presented and answered in writing.

(b) The examination must be proctored by an individual designated by the certifying authority and who is not seeking certification at any examination session that he or she is proctoring.

(c) Each person seeking certification must present at the time of examination valid, government-issued photo identification or other form of similarly reliable identification authorized by the certifying authority as proof of identity and age to be eligible for certification.

(d) Candidates must be monitored throughout the examination period.

(e) Candidates must be instructed in examination procedures before beginning the examination.

(f) Examinations must be kept secure before, during, and after the examination period so that only the candidates have access to the examination, and candidates have access only in the presence of the proctor.

(g) Candidates must not have verbal or non-verbal communication with anyone other than the proctor during the examination period.

(h) No portion of the examination or any associated reference materials described in Item (i) of Paragraph (1) of Subsection D of 21.17.50.18 NMAC may be copied or retained by any person other than a person authorized by the certifying authority to copy of retain the examination or any associated reference materials described in Item (i) of Paragraph (1) of Subsection D of 21.17.50.18 NMAC.

(i) The only reference materials used during the examination are those that are approved by the certifying authority and provided and collected by the proctor.

(j) Reference materials provided to examinees are reviewed after the examination is complete to ensure that no portion of the reference material has been removed, altered, or destroyed.

(k) The proctor reports to the certifying authority any examination administration inconsistencies or irregularities, including but not limited to cheating, use of unauthorized materials, and attempts to copy or retain the examination.

(l) The examination must be conducted in accordance with any other requirements of the certifying authority related to examination administration.

(m) The certifying authority must notify each candidate of the results of his or her examination.

E. 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.

F. 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.

G. Persons seeking certification as certified applicators must demonstrate practical knowledge of the principles and practices of pest control and proper and effective use of restricted use pesticides by passing a written examination. Written examinations for all certified (Commercial, Non-Commercial, Public) applicators must address all of the areas of competency as listed in code of federal regulations Title 40: Protection of Environment Part 171, Subpart B 171.103(c) Core standards for all categories of certified applicators and 40 code of federal regulations 171.105(a) Standards for certification of private applicators.

[21.17.50.18 NMAC – Rp, 21.17.50.18 NMAC, 10/07/2025; A, 04/01/2027]

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.

F. conclusion of a state enforcement action for the violations of state laws.

[21.17.50.19 NMAC – Rp, 21.17.50.19 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.20 OPERATOR[~~/TECHNICIAN~~] TRAINING PERMITS: A new employee of a licensed commercial applicator [~~may work up to~~] shall work no more than 60 calendar days under [~~a~~] an operator[~~/technician~~] training permit provided another commercial applicator or operator [~~technician~~] licensed in New Mexico at least 6 months is present on the application site. Prior to expiration of the [~~operator/technician~~] operator 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~~] operator training permit can not be extended.

[21.17.50.20 NMAC – Rp, 21.17.50.20 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.22 MINIMUM COVERAGE REQUIREMENTS:

A. Surety bond – $100,000

B. Liability insurance:

(1) Aircraft.

(a) Bodily injury – [~~$25,000~~] $250,000 each occurrence, [~~$50,000~~] $500,000 aggregate.

(b) Property damage – [~~$50,000~~] $300,000 each occurrence.

(c) Single limit bodily injury and property damage – [~~$100,000~~] $500,000.

(2) Ground or manual.

(a) Bodily injury – [~~$10,000~~] $200,000 each occurrence – [~~$25,000~~] $400,000 aggregate.

(b) Property damage – [~~$25,000~~] $250,000 each occurrence.

(c) Single limit bodily injury and property damage – [~~$50,000~~] $500,000.

[~~**(3)** Maximum amount of deductible (if applicable) – $1,000.~~]

[21.17.50.22 NMAC – Rp, 21.17.50.22 NMAC, 10/07/2025; A, 04/01/2027]

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~~] operator license fee shall be [~~seventy-five~~] 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~~] operator shall be twenty dollars ($20.00) per examination.

[21.17.50.25 NMAC – Rp, 21.17.50.25 NMAC, 10/07/2025; A, 04/01/2027]

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