TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 56 RESTRICTED-USE PESTICIDES

21.17.56.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[21.17.56.1 NMAC – Rp, 2.17.56.1 NMAC, 04/01/2027]
[MSC 3189, Box 30005, Las Cruces, New-Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.56.2 SCOPE: This rule shall apply to all persons using, selling, or distributing restricted-use pesticides.
[21.17.56.2 NMAC – Rp, 2.17.56.2 NMAC, 04/01/2027]

21.17.56.3 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.
[21.17.56.3 NMAC – Rp, 2.17.56.3 NMAC, 04/01/2027]

21.17.56.4 DURATION: Permanent.
[21.17.56.4 NMAC – Rp, 2.17.56.4 NMAC, 04/01/2027]

21.17.56.5 EFFECTIVE DATE: April 01, 2027, unless a later date is cited at the end of a section.
[21.17.56.5 NMAC – Rp, 2.17.56.5 NMAC, 04/01/2027]

21.17.56.6 OBJECTIVE: The objective of Part 56 of Chapter 17 is to establish the classification and restrictions for purchase and use of certain pesticides.
[21.17.56.6 NMAC – Rp, 2.17.56.6 NMAC, 04/01/2027]

21.17.56.7 DEFINITIONS: [RESERVED]

21.17.56.8 FEDERAL CLASSIFICATION OF PESTICIDES: Any pesticide product or use classified for restricted-use by the U.S. environmental protection agency shall be classified for restricted use in New Mexico.
[21.17.56.8 NMAC – Rp, 2.17.56.8 NMAC, 04/01/2027]

21.17.56.9 USE OF PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING: It shall be unlawful to use any pesticide in a manner inconsistent with the directions on its labeling; provided, the term "inconsistent with the directions" shall not include:

A. applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, provided this paragraph shall not apply to the use of termiticides;

B. applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the U.S. environmental protection agency has required that the labeling specifically state the pesticide may be used only for the pests specified on the labeling and the U.S. environmental protection agency has determined the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment;

C. mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling;

D. any use of a pesticide in conformance with sections 5, 18, or 24 of the federal Insecticide, Fungicide, and Rodenticide Act.

[21.17.56.9 NMAC – Rp, 2.17.56.9 NMAC, 04/01/2027]

21.17.56.10 PURCHASE OF RESTRICTED-USE PESTICIDES:

A. It shall be unlawful for any person other than a licensed, commercial, non-commercial, or public applicator or certified private applicator to purchase a federal or state restricted-use pesticide.

B. It shall be unlawful for a pesticide dealer to sell any restricted-use pesticide to any person who is

not a certified applicator, provided individuals under the direct supervision of a certified applicator may receive and transport restricted-use pesticides for the certified applicator.
[21.17.56.10 NMAC – Rp, 2.17.56.10 NMAC, 04/01/2027]

21.17.56.11 STATE RESTRICTED-USE PESTICIDES: The board disclaims liability for any costs incident to inspection or compliance with the provisions of this rule.

A. State restricted-use insecticides: [**REPEALED**]

B. State restricted-use herbicides: In order to prevent unreasonable adverse effects on the environment, all formulations of the herbicides listed in this section shall be classified for restricted use in New Mexico, provided their labels or labeling contain directions for use on agronomic crops, range or pasture lands, rights-of-way, forest, or non-croplands. Those products labeled solely for use in ornamental, turf, or home garden plantings shall remain unrestricted.

(1) 2,4-D/2,4-Dichlorophenoxyacetic acid.

(2) 2,4-DB/4-(2,4-Dichlorophenoxy)butyric acid.

[21.17.56.11 NMAC – Rp, 2.17.56.11 NMAC, 04/01/2027]

21.17.56.12 [RESERVED]
[21.17.56.12 NMAC – Rp, 2.17.56.12 NMAC, 04/01/2027]

21.17.56.13 [RESERVED]
[21.17.56.13 NMAC – Rp, 2.17.56.13 NMAC, 04/01/2027]

21.17.56.14 [RESERVED]
[21.17.56.14 NMAC – Rp, 2.17.56.14 NMAC, 04/01/2027]

21.17.56.15 APPLICATOR RECORDS:

A. Any New Mexico licensed and certified pesticide applicator shall maintain the following records for two years for all pesticide applications:

(1) all records as required under 21.17.50.10 NMAC for restricted use pesticides;

(2) other records not listed above, when required by the worker protection standard, 40 code of federal regulations Part 170, under authority of the federal Insecticide, Fungicide, and Rodenticide Act; and

(3) other records not listed above, when required under the United States department of agriculture private applicator recordkeeping program.

B. For pesticide applications made by a commercial pesticide applicator, application information shall be exchanged in the timeframe and manner specified with any landowner who is an agricultural employer under 40 code of federal regulations Part 170, the federal worker protection standard.
[21.17.56.15 NMAC – Rp, 2.17.56.15 NMAC, 04/01/2027]

21.17.56.16 DEALER RECORDS [RESERVED]
[21.17.56.16 NMAC – Rp, 2.17.56.16 NMAC, 04/01/2027]

21.17.56.17 LIMITATION OF LIABILITY:

The board disclaims liability for any costs incident to inspection or compliance with the provisions of this rule.
[21.17.56.17 NMAC – N, 04/01/2027]

HISTORY OF 21.17.56 NMAC:
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:
DOA 73-8, Regulatory Order No. 1, Pesticide Regulations, filed 9/13/1973.
DOA 74-5, Regulatory Order No. 2, Pesticide Regulations, filed 4/10/1974.
DOA 75-5, Regulatory Order No. 3, Pesticide Regulations, filed 9/15/1975.
DOA 79-3, Regulatory Order No. 6, Establishes the Classification of Certain Pesticides, filed 11/29/1979.
DOA 80-4, Regulatory Order No. 6, Establishes the Classification of Certain Pesticides, filed 3/27/1980.
NMDA Rule No. 84-1, Restricted-Use Pesticides, filed 3/19/1984.
NMDA Rule No. 87-2, Restricted-Use Pesticides, filed 5/18/1987.

NMDA Rule No. 88-1, Restricted-Use Pesticides, filed 2/19/1988.
NMDA Rule No. 89-2, Restricted-Use Pesticides, filed 3/30/1989.

History of Repealed Material:
21 NMAC 17.56.11.1, State Restricted-Use Insecticides, repealed 12/1/1996.
21 NMAC 17.56.12, Restricted-Use, Hormone-Type Herbicide Permits, repealed 12/1/1996.
21 NMAC 17.56.13, Purchase of Restricted-Use, Hormone-Type Herbicide, repealed 12/1/1996.
21 NMAC 17.56.16, Dealer Records, repealed 12/1/1996.
[21 NMAC 17.56.14, Application of a Restricted-Use, Hormone-Type Herbicide in Regulated Counties, repealed 08/16/1910]

Other History:
21.17.56 NMAC - Restricted-Use Pesticides, filed 12/01/1996, was repealed and replaced by 21.17.56 NMAC - Restricted-Use Pesticides, effective 04/01/2027.