TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 57 M-44 CAPSULES AND THE LIVESTOCK PROTECTION COLLAR

21.17.57.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]
[MSC 3189, Box 30005, Las Cruces, New-Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.57.2 SCOPE: This rule shall apply to all persons using, selling or distributing M-44 capsules or livestock protection collars.
[21.17.57.2 NMAC – Rp, 21.17.57.2 NMAC, 04/01/2027]

21.17.57.3 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.
[21.17.57.3 NMAC – Rp, 21.17.57.3 NMAC, 04/01/2027]

21.17.57.4 DURATION: Permanent.
[21.17.57.4 NMAC – Rp, 21.17.57.4 NMAC, 04/01/2027]

21.17.57.5 EFFECTIVE DATE: April 01, 2027, unless a different date is cited at the end of a section.
[21.17.57.5 NMAC – Rp, 21.17.57.5 NMAC, 04/01/2027]

21.17.57.6 OBJECTIVE: The objective of Part 57 of Chapter 17 is to establish limitations and the parameters for selling, distributing or using M-44 capsules or compound 1080 in livestock protection collars.
[21.17.57.6 NMAC – Rp, 21.17.57.6 NMAC, 04/01/2027]

21.17.57.7 DEFINITIONS: In addition to the definitions contained in the Pesticide Control Act, 76-4-3, NMSA 1978, the following definitions shall also apply.

A. **"Department"** means the New Mexico department of agriculture.

B. **"Livestock protection collar"** means a collar-like device which contains the active ingredient sodium fluoroacetate (compound 1080) and is registered with the U.S. environmental protection agency (EPA) for the protection of livestock. The term "livestock protection collar" may be referred to as "LPC".

C. **"M-44 capsule"** means the sodium cyanide capsule, registered with the EPA for use in the M-44 device.

D. **"M-44 device"** means the patented spring-operated device designed to eject the sodium cyanide in an M-44 capsule into the mouth of target organisms.
[21.17.57.7 NMAC – Rp, 21.17.57.7 NMAC, 04/01/2027]

21.17.57.8 PROHIBITED ACTS: It shall be unlawful:

A. to sell or transfer LPCs or M-44 capsules used in the M-44 device to persons not certified to use LPC or M-44 capsules respectively;

B. for any person to sell or transfer M-44 capsules unless licensed as an authorized M-44 pesticide dealer;

C. for any person to transfer LPCs except through the registrant;

D. to use LPCs or M-44 capsules without a copy of the label in the possession of the certified applicator;

E. to fill, load, or remove the toxicant from any LPC or M-44 capsule.
[21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]

21.17.57.9 LICENSING OF PERSONS USING M-44 CAPSULES OR LIVESTOCK PROTECTION COLLARS:

A. The LPC certification category is in addition to any other pesticide certification category. No other certification category covers the use of LPCs in the state.

B. The M-44 certification category is in addition to any other pesticide certification category. No other certification category covers the use of M-44 capsules in the state.

C. No person shall be certified or licensed to use LPCs or M-44 capsules unless they are a livestock producer, an employee of a livestock producer employed no less than six months per year, or work for a government animal damage control program.

D. Any person using LPCs or M-44 capsules shall be a certified applicator, with a current department issued license. No LPCs or M-44 capsules shall be applied under the direct supervision of any other certified applicator.

E. The department may require re-training or re-testing when any applicator fails to comply with the LPC or M-44 capsule label or labeling, New Mexico Pesticide Control Act or its rules.

[21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]

21.17.57.10 RECORDKEEPING, MONITORING AND REPORTING:

A. Each dealer or registrant shall maintain sales records for LPCs or M-44 capsules on forms prescribed by the department for at least two years after the date of sale, and shall submit copies of those records annually to the department.

B. Where the department is the registrant, each order for registered M-44 capsules shall be accompanied by a record of livestock losses as specified in Section III, Subsection A of the M-44 label.

(1) Orders shall not be processed until a record of livestock predation is on file.

(2) Documented livestock losses shall not be older than 90 days prior to the date of the order for M-44 capsules, except that historic seasonal losses in a specified area shall be updated annually.

C. Dealer records shall include:

(1) the date of sale or transfer;

(2) license or certification number of each LPC or M-44 applicator who purchased or received a collar or M-44 capsules;

(3) the number of LPCs sold or transferred;

(4) the serial number of each LPC; and

(5) the number of M-44 capsules sold or transferred.

D. Any applicator using LPCs shall maintain for a period of two years from the date of use the following records:

(1) the serial number and quantity of the LPC attached to the livestock;

(2) the pasture(s) where collared livestock were placed;

(3) the dates of each attachment, inspection and removal;

(4) the number and locations of livestock found with ruptured LPCs, and the apparent cause of the damage;

(5) the number, dates and approximate location of LPCs lost;

(6) the species, locations and dates of all animals suspected to have been killed by LPCs;

(7) all suspected poisonings of humans, domestic animals or non-target wild animals resulting from LPC use, and all other accidents involving the release of compound 1080;

(8) the number of LPCs in storage; and

(9) records of disposal of contaminated collars and carcasses including date and location of disposal.

E. Any applicator using M-44 capsules shall maintain for a period of two years from the date of use the following records:

(1) copies of all Animal Damage Confirmation Reports submitted by the applicator for purchase or use of M-44 devices;

(2) records of notification provided to local medical personnel per Section III, Subsection B of the label;

(3) number of devices placed and their specific GPS coordinates for each M-44 device;

(4) dates of placement, inspection, and removal for each M-44 device;

(5) number and location of each M-44 device which have been discharged and the apparent reason for each discharge;

(6) species of animals taken;

(7) all accidents or injuries to humans or non-target animals;

(8) current inventory of M-44 devices;

(9) notification records of residences located on private land where M-44 devices are/were placed per Section IV, Subsection D of the label;

(10) notification records related to occupied residences located within 0.5 miles of a M-44 device placement per Section IV, Subsection E of the label;

(11) records related to written permissions from property owner per Section IV, Subsection F of the label; and

(12) records related to disposal of damaged or unused M-44 devices.

F. 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 as stated in 21.17.50.10 NMAC.

[21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]

21.17.57.11 ACCIDENT REPORTING:

A. Each in-state dealer or certified applicator shall report accidents involving any suspected or actual poisoning of threatened or endangered species or humans involving LPCs or M-44 capsules used in the M-44 device to the department within one working day by telephone. Phone 575-646-3007.

B. Each certified applicator shall report takings of domestic animals or non-target wild animals involving LPCs or M-44 capsules used in the M-44 device to the department within 30 days of the end of each calendar quarter.

[21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]

HISTORY OF 21.17.57 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 No. 91-1, Livestock Protection Collar and the M-44 Device, filed 5/16/1991.

History of Repealed Material: [RESERVED]

Other History:

21.17.57 NMAC - M-44 Capsules and the Livestock Protection Collar, filed 5/16/1991, was repealed and replaced by 21.17.57 NMAC - M-44 Capsules and the Livestock Protection Collar, effective 04/01/2027.